



JUDICIARY COMMITTEE

MEETING PACKET

**Wednesday, March 8, 2006
10:00 a.m. – 12:00 p.m.
Morris Hall
(17 HOB)**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Judiciary Committee

Start Date and Time: Wednesday, March 08, 2006 10:00 am

End Date and Time: Wednesday, March 08, 2006 12:00 pm

Location: Morris Hall (17 HOB)

Duration: 2.00 hrs

Consideration of the following bill(s):

HJR 33 Homestead Property Assessments by Domino

HJR 39 Limitations on Assessments of Residential and Commercial Property by Farkas

Consideration of the following proposed committee bill(s):

PCB JU 06-04 -- Land Trusts

PCB JU 06-05 -- Constitutional Revision

NOTICE FINALIZED on 03/06/2006 16:08 by Williams.Tanesha



Florida House of Representatives

Judiciary Committee

Allan G. Bense
Speaker

David Simmons
Chair

COMMITTEE ON JUDICIARY

Morris Hall (17 HOB)

March 8, 2006

10:00 a.m. – 12:00 p.m.

Agenda

1. Call to order
2. Roll call
3. Welcome and opening remarks

Representative David Simmons, Chair

4. Consideration of the following proposed committee bill:

PCB JU 06-04	Judiciary	Land Trusts
PCB JU 06-05	Judiciary	Constitutional Revision

5. Consideration of the following bills:

<u>Bill</u>	<u>Sponsor(s)</u>	<u>Title</u>
HJR 33	Domino	Homestead Property Assessments
HJR 39	Farkas	Limitations on Assessments of Residential and Commercial Property



6. Closing remarks

Representative David Simmons, Chair

7. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 33 Homestead Property Assessments
SPONSOR(S): Domino and others
TIED BILLS: IDEN./SIM. BILLS: SJR 138, SJR 112

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary Committee		Hogge 	Hogge 
2) Local Government Council			
3) Finance & Tax Committee			
4) Justice Council			
5) _____			

SUMMARY ANALYSIS

In 1992, Florida voters approved the so-called "Save Our Homes" amendment to the State Constitution. This amendment limits the annual growth in the assessed value of homestead property to 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less. It also provides for a reassessment of homestead property at just value after any change of ownership.

This House Joint Resolution proposes to amend Article VII, s. 4, of the State Constitution by providing that, at change of ownership, a newly acquired homestead property shall be assessed at less than just value rather than being reassessed at just value—if certain conditions are met:

- that the new homestead is purchased within one year of the sale of the previous homestead; and,
- the assessed value of the new homestead equals or exceeds the assessed value of the previous homestead.

The extent to which the initial assessment may depart from just value will be determined pursuant to general law. However, the proposal sets limits on the extent to which the initial assessment can depart from just value, by providing that the difference between the just value for the new homestead property and its assessed value in the first year may not exceed the difference between the just value of the previous homestead and its assessed value when sold.

According to the Special Impact Session of the Revenue Estimating Conference, the proposal is expected to have a negative fiscal impact on local governments in the aggregate, assuming no off-setting changes in millage rates, for each of the following fiscal years: FY 2008-09 (\$447.5m), FY 2009-10 (\$931.4m), FY 2010-11 (\$1,430.6m), FY 2011-12 (\$1,923.7m), and FY 2012-13 (\$2,417.6m). However, these reductions would come in the aftermath of double-digit increases in taxable values that have produced significant increases in ad valorem property tax revenues over the past several years. This fiscal impact assumes that the general law enacted pursuant to the amendment will provide for the maximum allowable departure from just value.

For homeowners, the negative fiscal impact could translate into maximum property tax savings of up to an amount corresponding to the estimated reduction in the growth of property tax revenues, again assuming no off-setting changes in millage rates.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill implicates the following House Principle:

Ensure lower taxes—

If approved by the voters and if market values continue to outpace the proposed assessment cap, then this proposal would reduce the amount of growth in total assessed property values and without off-setting millage changes, would result in property tax savings by homeowners. Many sparsely populated rural counties have no available millage capacity and would be among those local governments unable to increase their millage rates to compensate for resulting revenue losses.¹

B. EFFECT OF PROPOSED CHANGES:

Ad valorem property taxes are the single largest source of tax revenues for general purpose local governments in Florida. In FY 2002-03 (the last year for which published fiscal information is available), property taxes accounted for 31 percent of county governmental revenue (i.e., \$6.3 billion), and almost 20 percent of municipal government revenue (i.e., \$2.4 billion). Ad valorem property tax revenues also are the primary local revenue source for school districts. For that same fiscal year, school districts levied \$8.4 billion in property taxes.

Ad valorem property tax revenues result from multiplying the millage rate adopted by counties, municipalities, and school boards, by the taxable value of property within that jurisdiction. Each entity may levy up to 10 mills and, in most cases, the real property must be assessed at just value.² Article VII, s. 6 of the State Constitution authorizes a \$25,000 ad valorem property tax exemption for homestead property.

In 1992, Florida voters approved the so-called "Save Our Homes" amendment to the State Constitution. This amendment limits the annual growth in the assessed value of homestead property to 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less. It also provides for a reassessment of homestead property at just value after any change of ownership.³ The "Save Our Homes" constitutional amendment, originally proposed as a way to protect homeowners from being forced to sell their homes because of escalating property taxes caused by assessment increases, is now seen by some as keeping people from selling their homes and buying another home because of substantially higher property taxes resulting from the constitutionally required reassessment upon change in ownership.

Largely due to the recent surge in housing values⁴ and lack of corresponding millage rate reductions by local officials to offset double-digit increases in taxable values, ad valorem property tax revenues have increased substantially in recent years: 9.2 percent in 2002, 11.5 percent in 2003, and 10.4 percent in

¹ For 2004 (the latest published information available), 14 of the 67 county governments levied the full 10 mills, the constitutional maximum, and, therefore, have no available millage capacity. An additional 8 counties levied at least 9 mills. *Florida Property Valuation & Tax Data*, Department of Revenue, State of Florida (Dec. 2004).

² "Just value" is the estimated market value of the property. "Assessed value" is generally synonymous with "just value" unless a constitutional exception such as Save Our Homes applies to reduce the value of the property. "Taxable value" is the assessed value minus any applicable exemptions such as the \$25,000 homestead exemption.

³ Fla. Const. art. VII, s. 4(c)(3).

⁴ The boom in housing values does not translate into an identical increase in "just values" or "assessed values" since not all property is taxed at "just value." "Just values" have experienced double-digit increases since 2001: 10.6% in 2001; 11.3% in 2002; 12.4% in 2003; and 14.0% in 2004. For the period 1990-2000, the largest increase was 8.3%, with two years, 1992 and 1993, experiencing an increase of only 2.0%. Although not as large, the growth in "taxable values" resulted in a similar experience.

2004.⁵ These annual property tax increases are twice as high as the 5 percent average increase experienced between 1991 and 2000, but comparable to the 12.5 percent average annual increase from 1981 to 1990.⁶ Despite the growth in total taxable values, the statewide average actual millage rates have remained relatively unchanged, although on a generally downward trend.⁷ However, the differential between the actual millage rate and the so-called “roll back rate” (i.e., the millage rate necessary to generate the same amount of revenue as the prior year excluding new construction and boundary changes) is substantially more pronounced since 2000, than it was from 1990 to 1999. The taxable value of all real property has increased 53 percent over the past four years.

The amount of value removed from the tax rolls from the “Save Our Homes” provision is growing at a much faster rate than the amount of value removed by the homestead exemption. For example, in 2005, the amount of value excluded from the tax rolls as a result of the Save Our Homes provision grew by \$81 billion over the previous year compared to \$1.7 billion removed as a result of the homestead exemption.

Proposed Change

This House Joint Resolution proposes to amend Article VII, s. 4, of the State Constitution by providing that, at change of ownership, a newly acquired homestead property shall be assessed at less than just value rather than being reassessed at just value—if certain conditions are met:

- that the new homestead is purchased within one year of the sale of the previous homestead; and,
- the assessed value of the new homestead equals or exceeds the assessed value of the previous homestead.

The extent to which the initial assessment may depart from just value will be determined pursuant to general law. However, the proposal sets limits on the maximum extent to which the initial assessment can depart from just value, by providing that the difference between the just value for the new homestead property and its assessed value in the first year may not exceed the difference between the just value of the previous homestead and its assessed value when sold. Under the bill, the lowest possible assessment for the newly acquired homestead as provided in the following example would be:

Previous homestead—

Just value when sold	:	\$200,000
Assessed value when sold		\$100,000
Difference		\$100,000

New homestead—

Just value at purchase	:	\$250,000
Assessed value (originally)		\$125,000
Difference		\$125,000
Minimum new assessed value under proposal ⁸		\$150,000 (\$250,000-\$100,000)

⁵ “Taxes Levied and Millage Rates 1974-2004,” from *2006 Property Tax Roll Estimates* prepared by the Revenue Estimating Conference, November 8, 2005. The amount of ad valorem property tax levied for 2005 is not yet available, but the value of property subject to the tax increased by approximately 20%.

⁶ Id.

⁷ Actual average millage rates for all jurisdictions for 2004—20.18; for 2003—20.60; for 2002—20.57. Excluding public school levies for 2004—11.96; for 2003—12.06; for 2002—11.93.

⁸ Note that the initial assessed value for purposes of this example could wind up being anywhere between a low of \$150,000 and just under \$250,000, depending on the terms of general law. The proposal provides that the assessed value of the newly established

C. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Ad valorem taxes are the primary revenue source for school districts. Because this bill generally would limit the extent of reassessment of homestead properties upon change of ownership and keep more homesteads from ever being reassessed at just value, it would also limit the growth in the amount of revenue generated from property taxes for school purposes, absent an adjustment in the millage rates. As such, the state could be put in the position of having to supply an increasing amount of support for the school system if the necessary funds could not be generated at the local level.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This proposal is expected to have a negative fiscal impact on local governments, necessitating reductions in expenditures and/or an increase in millage rates (in those jurisdictions where that capacity exists) to maintain current levels of property tax revenues. According to the Special Impact Session of the Revenue Estimating Conference, the proposal is expected to have the following negative fiscal impact on local governments for the following fiscal years, assuming no off-setting changes in millage rates: FY 2008-09 (\$447.5m), FY 2009-10 (\$931.4m), FY 2010-11 (\$1,430.6m), FY 2011-12 (\$1,923.7m), and FY 2012-13 (\$2,417.6m). This fiscal impact assumes that the general law enacted pursuant to the amendment will provide for the maximum allowable departure from just value.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

For homeowners, the potential negative fiscal impact experienced by local governments would translate into maximum property tax savings for homeowners of up to an amount corresponding to the estimated reduction in the growth of property tax revenues, assuming no off-setting changes in millage rates. For the following fiscal years, these amounts are estimated to be: FY 2008-09 (\$447.5m), FY 2009-10 (\$931.4m), FY 2010-11 (\$1,430.6m), FY 2011-12 (\$1,923.7m), and FY 2012-13 (\$2,417.6m). These amounts assume that the general law enacted pursuant to the amendment will provide for the maximum allowable departure from just value.

D. FISCAL COMMENTS:

None.

homestead shall initially be set at less than just value, *as provided by general law*. Presumably, general law would specify how much less than just value the assessment would be. Therefore, the actual impact of the bill will be determined by general law.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply to House Joint Resolutions.

2. Other:

Article XI, Section 1 of the State Constitution provides the Legislature with the authority to propose amendments to the State Constitution by joint resolution approved by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office or may be placed at a special election held for that purpose.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Not applicable.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HJR 33

2006

House Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII of the State Constitution to provide an additional circumstance for assessing homestead property at less than just value.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 4 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.--By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(c) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at

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just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided herein.

(1) Assessments subject to this provision shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) No assessment shall exceed just value.

(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year, unless the provisions of paragraph (8) apply. Thereafter, the homestead shall be assessed as provided herein.

(4) New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead, unless the provisions of paragraph (8) apply. That assessment shall only change as provided herein.

(5) Changes, additions, reductions, or improvements to homestead property shall be assessed as provided for by general law; provided, however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided herein.

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(6) In the event of a termination of homestead status, the property shall be assessed as provided by general law.

(7) The provisions of this amendment are severable. If any of the provisions of this amendment shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this amendment.

(8) When a person sells his or her homestead property within this state and within one year purchases another property and establishes such property as homestead property, the newly established homestead property shall be initially assessed at less than just value, as provided by general law. The difference between the new homestead property's just value and its assessed value in the first year the homestead is established may not exceed the difference between the previous homestead's just value and its assessed value in the year of sale. In addition, to be assessed as provided in this paragraph, the assessed value of the new homestead must equal or exceed the assessed value of the previous homestead. Thereafter, the homestead shall be assessed as provided herein.

(d) The legislature may, by general law, for assessment purposes and subject to the provisions of this subsection, allow counties and municipalities to authorize by ordinance that historic property may be assessed solely on the basis of character or use. Such character or use assessment shall apply only to the jurisdiction adopting the ordinance. The requirements for eligible properties must be specified by general law.

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(e) A county may, in the manner prescribed by general law, provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. Such a reduction may not exceed the lesser of the following:

(1) The increase in assessed value resulting from construction or reconstruction of the property.

(2) Twenty percent of the total assessed value of the property as improved.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 4

HOMESTEAD PROPERTY ASSESSMENTS.--Proposing an amendment to the State Constitution to provide for assessing at less than just value property purchased within one year after a sale of homestead property and established as new homestead property, limited by the difference between the new homestead property's just value and its assessed value in the first year the homestead is established not exceeding the difference between the previous homestead's just value and its assessed value in the year of sale and the new homestead property's assessed value

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

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112 | equaling or exceeding the old homestead property's assessed
113 | value.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS



BILL #: HJR 39

Limitations on Assessments of Residential and Commercial Property

SPONSOR(S): Farkas

TIED BILLS:

IDEN./SIM. BILLS: SJR 22

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary Committee		Hogge 	Hogge 
2) Local Government Council			
3) Finance & Tax Committee			
4) Justice Council			
5) _____			

SUMMARY ANALYSIS

This House Joint Resolution proposes to amend Article VII, section 4 of the State Constitution by extending the so-called "Save Our Homes" limitation on annual increases in the assessed value of homestead property to "all residential or commercial property." As a result, the annual assessed value of residential or commercial property, not just homestead property, could not be increased more than 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less.

If approved by the voters and if market values continue to outpace the proposed assessment cap, the extension of the "Save Our Homes" limitation to all residential and commercial property would reduce the growth in total assessed property values and, as a result, reduce the amount of ad valorem property taxes billed to property owners, unless a local government were to adopt a corresponding increase in the millage rate to offset the likely reductions in the growth in total assessed values. However, if a local government is unable to offset the reductions in growth by increasing the millage rate because of a lack of millage capacity, property owners would experience reduced property taxes. Many small rural counties have no available millage capacity and would be among those local governments unable to increase their millage rates to compensate for losses resulting from an extension of the cap on assessed values to property other than homesteads. For others that do have available millage capacity, that capacity is likely to be quickly outstripped by the reduction in the growth of total taxable values.

However, in proposing this change, the joint resolution is drafted in a manner that may actually have the effect, apparently unintended, of increasing the assessed value of homestead property currently benefiting from the assessment cap by requiring a rebalancing of the assessed values of all residential and commercial property as of January 1 of the year following the effective date of this proposed constitutional amendment. Without a corresponding millage rate reduction, this rebalancing would have the effect of increasing the amount of ad valorem property taxes paid by those property owners whose homesteads are reassessed.

This proposal is expected to have a significant adverse fiscal impact on local governments.

See Section II.B.1. of this analysis for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill implicates the following House Principle:

Ensure lower taxes—

If approved by the voters and if market values continue to outpace the proposed assessment cap, the extension of the "Save Our Homes" limitation from homestead¹ to all residential and commercial property would reduce the growth in total assessed property values and, as a result, reduce the amount of ad valorem property taxes billed to property owners, unless a local government adopted a corresponding increase in the millage rate to offset the likely reductions in the growth in total assessed values. However, if a local government is unable to offset these reductions by increasing the millage rate because of a lack of millage capacity, property owners would experience reduced property taxes. Many small rural counties have no available millage capacity and would be among those local governments unable to increase their millage rates to compensate for losses resulting from an extension of the cap on assessed values to property other than homesteads. For others that do have available millage capacity, that capacity is likely to be quickly outstripped by the reduction in the growth of total assessed values.

However, though apparently not intended by the sponsor, this proposal could result in increased taxes. By amending Art. VII, section 4(c) of the State Constitution to require commercial property to also be assessed at just value as of January 1 of the year following the "effective date of this amendment," this proposal could have the effect of subjecting all homestead property currently assessed below market value to be reassessed at current market values (in effect losing the benefit of their accrued constitutionally provided assessment cap). Absent a corresponding millage rate reduction, this would have the effect of increasing the amount of ad valorem property taxes paid by certain property owners.

B. EFFECT OF PROPOSED CHANGES:

Background

Ad valorem property taxes are the single largest source of tax revenues for general purpose local governments in Florida. In FY 2002-03, the last year for which fiscal information is available, property taxes accounted for 31 percent of county governmental revenue (\$6.3 billion), and almost 20 percent of municipal government revenue (\$2.4 billion). Ad valorem property tax revenues also are the primary local revenue source for school districts. For that same fiscal year, school districts levied \$8.4 billion in property taxes.

Ad valorem property tax revenues result from multiplying the millage rate adopted by counties, municipalities, and school boards by the taxable value of property within that jurisdiction. Each entity may levy up to 10 mills and, in most cases, the real property must be assessed at just value.² Article VII, s. 6 of the State Constitution authorizes a \$25,000 ad valorem property tax exemption for homestead property.

¹ That is, real property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another who is legally or naturally dependent upon the owner.

² "Just value" is the estimated market value of the property. "Assessed value" is generally synonymous with "just value" unless a constitutional exception such as Save Our Homes applies to reduce the value of the property. "Taxable value" is the assessed value minus any applicable exemptions such as the \$25,000 homestead exemption.

In 1992, Florida voters approved the so-called “Save Our Homes” amendment to the State Constitution. This amendment limits the annual growth in the assessed value of homestead property to 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less. It does not limit assessment increases for other types of property such as non-homestead residential, commercial, or industrial property. This has produced valuation differentials for tax purposes among properties having similar market values. The “Save Our Homes” exception is one of several exceptions to the just value requirement found in Article VII, s. 4 of the State Constitution.³

Largely due to the recent surge in housing values⁴ and lack of corresponding millage rate reductions by local officials to offset double-digit increases in taxable values, ad valorem property tax revenues have increased substantially in recent years: 9.2 percent in 2002, 11.5 percent in 2003, and 10.4 percent in 2004.⁵ These annual property tax increases are twice as high as the 5 percent average increase experienced between 1991 and 2000, but comparable to the 12.5 percent average annual increase from 1981 to 1990.⁶ Despite the growth in total taxable values, the statewide average actual millage rates have remained relatively unchanged, although on a generally downward trend.⁷ However, the differential between the actual millage rate and the so-called “roll back rate” (i.e., millage rate necessary to generate the same amount of revenue as the prior year excluding new construction and boundary changes) is substantially more pronounced since 2000, then it was from 1990 to 1999.

The taxable value of all real property has increased 53 percent over the past four years.

The amount of value removed from the tax rolls from the “Save Our Homes” provision is growing at a much faster rate than the amount of value removed by the homestead exemption. For example, in 2005, the amount of value excluded from the tax rolls as a result of the Save Our Homes provision grew by \$81 billion over the previous year compared to \$1.7 billion removed as a result of the homestead exemption.

Proposed Change

This House Joint Resolution would propose to amend Article VII, s. 4 of the State Constitution by extending the limitation on annual increases in the assessment of all homestead property to all residential or commercial property. As a result, changes in the assessed value of residential or commercial property, and not just homestead property, could not exceed 3 percent of the assessment for the prior year or the percentage change in the U. S. Consumer Price Index, whichever is less.

C. SECTION DIRECTORY:

Not applicable.

³ These include exceptions for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Tangible personal property that is held as inventory may also be assessed at a specified percentage of its value or totally exempted. Additionally, counties and cities may be authorized to assess historical property based solely on the basis of its character or use, without regard to just value. The Legislature also has provided for differential treatment of specific property, to include pollution control devices and building renovations for the physically handicapped.

⁴ The boom in housing values does not translate into an identical increase in “just values” or “assessed values” since not all property is taxed at “just value.” “Just values” have experienced double-digit increases since 2001: 10.6% in 2001; 11.3% in 2002; 12.4% in 2003; and 14.0% in 2004. For the period 1990-2000, the largest increase was 8.3%, with two years, 1992 and 1993, experiencing an increase of only 2.0%. Although not as large, the growth in “taxable values” resulted in a similar experience.

⁵ “Taxes Levied and Millage Rates 1974-2004,” from 2006 Property Tax Roll Estimates prepared by the Revenue Estimating Conference, November 8, 2005. The amount of ad valorem property tax levied for 2005 is not yet available, but the value of property subject to the tax increased by approximately 20%.

⁶ Id.

⁷ Actual average millage rates for all jurisdictions for 2004—20.18; for 2003—20.60; for 2002—20.57. Excluding public school levies for 2004—11.96; for 2003—12.06; for 2002—11.93.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Ad valorem taxes are the primary revenue source for school districts. Because this bill applies the limits on assessed value to additional properties, it would also limit the amount of revenue generated from property taxes for school purposes, absent an adjustment in the millage rates. As such, the state might have to supply an increasing amount of support for the school system if the necessary funds could not be generated at the local level.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This proposal is expected to have a significant adverse fiscal impact on local governments, necessitating reductions in expenditures and/or an increase in millage rates (in those jurisdictions where that capacity exists) to maintain current property tax revenues. Although requested by staff, the Special Impact Session of the Revenue Estimating Conference has not yet rendered an official estimate of the fiscal impact. Unofficially, however, very preliminary staff estimates suggest a statewide reduction in property tax revenues of \$1.14 billion in 2006, followed by a \$2.33 billion and \$3.58 billion reduction in 2007 and 2008, respectively. For purposes of perspective, total property taxes levied statewide in 2004 were \$22.4 billion. These revenue reductions result from a projected reduction in the tax base of \$56.76 billion in 2006, growing to \$392.34 billion in 2011.

2. Expenditures:

This proposal would have no direct effect on expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If approved by the voters and if market values continue to outpace the proposed assessment cap, the extension of the "Save Our Homes" limitation from homestead to all residential and commercial property would reduce the growth in total assessed property values and, as a result, reduce the amount of ad valorem property taxes billed to property owners, unless a local government adopted a corresponding increase in the millage rate to offset the likely reductions in the growth in total assessed values. However, if a local government is unable to offset these reductions by increasing the millage rate because of a lack of millage capacity, property owners would experience reduced property taxes. Many small rural counties have no available millage capacity and would be among those local governments unable to increase their millage rates to compensate for losses resulting from an extension of the cap on assessed values to property other than homesteads. For others that do have available millage capacity, that capacity is likely to be quickly outstripped by the reduction in the growth of total assessed values.

However, though apparently not intended by the sponsor, this proposal could result in increased taxes. By amending Art. VII, section 4(c) of the State Constitution to require commercial property to also be assessed at just value as of January 1 of the year following the "effective date of this amendment," this proposal could have the effect of subjecting all homestead property currently assessed below market value to be reassessed at current market values (in effect losing the benefit of their accrued constitutionally provided assessment cap). Absent a corresponding millage rate reduction, this would have the effect of increasing the amount of ad valorem taxes paid by certain property owners.

Since this proposal would bring commercial property under the limitation on assessed values, commercial property would for the first time enjoy the benefit of the assessment limitation.

D. FISCAL COMMENTS:

The fiscal impact statements do not take into account the apparently unintended rebalancing that could occur based on the way in which the proposal is drafted. See discussion at Section III.C. of this analysis.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply to House Joint Resolutions.

2. Other:

Article XI, Section 1 of the State Constitution provides the Legislature with the authority to propose amendments to the State Constitution by joint resolution approved by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office or may be placed at a special election held for that purpose.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Critics of the existing constitutional provision—the so-called “Save Our Homes” amendment—point to the disparities it can produce in assessed values between properties of equivalent market values. For example, for two homes with a market value of \$250,000, the assessed value of one may be \$100,000, and for another, \$175,000. This can result in one homeowner paying substantially more in property taxes as a percentage of their respective market values. Without a similar cap on other non-homestead properties, it can also result in other property owners having to pay disproportionately more in taxes due to taxable values closer to true market values.

This proposal could have consequences apparently not intended by the sponsor; that is, by amending Art. VII, section 4(c) of the State Constitution to require commercial property to also be assessed at just value as of January 1 of the year following the “effective date of this amendment,” this proposal could have the effect of subjecting all homestead property currently assessed below market value to be reassessed at current market values (in effect losing the benefit of their accrued “Save Our Homes” cap). Absent a corresponding millage rate reduction, this would have the effect of increasing the amount of ad valorem taxes paid by certain property owners.

In what appears to be a strictly technical drafting issue, the proposal uses the disjunctive “or” in referring to the type of property, i.e., residential “or” commercial, subject to the general just value assessment requirement. Given the context, the conjunctive “and” seems more appropriate since the provision is referencing the universe of property affected by the requirement.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HJR 39

2006

House Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII of the State Constitution relating to limitations on assessments of residential and commercial property.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 4 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.--By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(c) All residential or commercial property persons ~~entitled to a homestead exemption under Section 6 of this~~

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29 ~~Article~~ shall be ~~have their homestead~~ assessed at just value as
30 of January 1 of the year following the effective date of this
31 amendment. This assessment shall change only as provided herein.

32 (1) Assessments subject to this provision shall be changed
33 annually on January 1st of each year; but those changes in
34 assessments shall not exceed the lower of the following:

35 a. Three percent (3%) of the assessment for the prior
36 year.

37 b. The percent change in the Consumer Price Index for all
38 urban consumers, U.S. City Average, all items 1967=100, or
39 successor reports for the preceding calendar year as initially
40 reported by the United States Department of Labor, Bureau of
41 Labor Statistics.

42 (2) No assessment shall exceed just value.

43 (3) After any change of ownership, as provided by general
44 law, residential or commercial ~~homestead~~ property shall be
45 assessed at just value as of January 1 of the following year.
46 Thereafter, the property ~~homestead~~ shall be assessed as provided
47 herein.

48 (4) New residential or commercial ~~homestead~~ property shall
49 be assessed at just value as of January 1st of the year
50 following the completion of construction ~~establishment~~ of the
51 property ~~homestead~~. That assessment shall only change as
52 provided herein.

53 (5) Changes, additions, reductions, or improvements to
54 residential or commercial ~~homestead~~ property shall be assessed
55 as provided for by general law; provided, however, after the

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adjustment for any change, addition, reduction, or improvement,
the property shall be assessed as provided herein.

~~(6) In the event of a termination of homestead status, the
property shall be assessed as provided by general law.~~

(6)~~(7)~~ The provisions of this amendment are severable. If
any of the provisions of this amendment shall be held
unconstitutional by any court of competent jurisdiction, the
decision of such court shall not affect or impair any remaining
provisions of this amendment.

(d) The legislature may, by general law, for assessment
purposes and subject to the provisions of this subsection, allow
counties and municipalities to authorize by ordinance that
historic property may be assessed solely on the basis of
character or use. Such character or use assessment shall apply
only to the jurisdiction adopting the ordinance. The
requirements for eligible properties must be specified by
general law.

(e) A county may, in the manner prescribed by general law,
provide for a reduction in the assessed value of homestead
property to the extent of any increase in the assessed value of
that property which results from the construction or
reconstruction of the property for the purpose of providing
living quarters for one or more natural or adoptive grandparents
or parents of the owner of the property or of the owner's spouse
if at least one of the grandparents or parents for whom the
living quarters are provided is 62 years of age or older. Such a
reduction may not exceed the lesser of the following:

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83 (1) The increase in assessed value resulting from
84 construction or reconstruction of the property.

85 (2) Twenty percent of the total assessed value of the
86 property as improved.

87 BE IT FURTHER RESOLVED that the following statement be
88 placed on the ballot:

89 CONSTITUTIONAL AMENDMENT

90 ARTICLE VII, SECTION 4


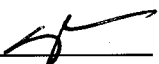
91 LIMITATIONS ON ASSESSMENTS OF RESIDENTIAL AND COMMERCIAL
92 PROPERTY.--Proposing an amendment to the State Constitution to
93 apply to all residential and commercial property the limitations
94 on assessments of property at just value currently applicable
95 only to homestead property.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB JU 06-04
SPONSOR(S): Judiciary Committee
TIED BILLS:

Land Trusts

IDEN./SIM. BILLS: SB 1956

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Judiciary Committee		Thomas 	Hogge 
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The essential purpose of a land trust is to provide a flexible method for the acquisition, financing, and disposition of real property. The land trust is a modified form of conventional trust agreement that is limited to an arrangement where the trustee holds title to the real property; however, all the active managerial and administrative powers are reserved to the beneficiaries.

The bill codifies existing practice and case law in the area of land trusts. It revises the current statute relating to land trusts by providing definitions of the terms "beneficial interest," "beneficiary," "land trust," "holders of the power of direction," and "trustee." It removes an obsolete provision referring to claims arising out of dower or curtesy. It creates provisions relating to land trust beneficiaries, successor trustees, and land trustees as creditors. Finally, it provides that the provisions of the bill are intended to clarify the existing law relating to land trusts and that the bill applies to all land trusts, whether the land trust was created before, on, or after the effective date of the bill.

The bill takes effect on October 1, 2006.

This bill does not appear to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Land Trusts in General

The essential purpose of a land trust is to provide a flexible and practical method for the acquisition, financing, and disposition of real estate. Illinois appears to have been the first state to recognize the land trust, and for that reason, the land trust is often referred to as the "Illinois Land Trust."¹ The land trust is a modified form of a conventional trust agreement; however, it is limited to an arrangement where the trustee holds title to the real property but all the active managerial and administrative powers are reserved to the beneficiaries. In a land trust, the trustee receives the legal title to the real property, but the usual attributes of real estate fee ownership are retained by the beneficiary. The beneficiary retains only a personal property interest.

The land trust has been equated to the Massachusetts business trust from which the land trust undoubtedly evolved.² However, unlike a Massachusetts business trust, a land trust is generally viewed as a vehicle for holding title to real property rather than as an operating business entity. The land trust is created through the use of two instruments: 1) a deed in trust, where the real property is conveyed to the trustee, and 2) a trust agreement under which the trustee acts. Land trusts have been found to have several advantages:

- Interests in land trusts cannot be partitioned, and transferring beneficial interests is relatively easy.
- Interests of beneficiaries cannot be disclosed without a court order.
- Judgments against the beneficiaries do not affect legal title of the real property.
- The beneficial interest in the land trust is personal property. Since it is personal property, non-residents of Florida can avoid ancillary administration.
- The death of a beneficiary does not terminate the trust, and testamentary dispositions can be made in the trust agreement.

The trustee to a land trust is the party designated in the trust agreement to hold legal and equitable title to the land trust property. The beneficiary is the party designated in the trust agreement as having the power to direct the trustee with regard to the trust property, as well as, the control of the management, operation, rental and sale of the trust property and the right to the earnings and proceeds of the trust property. The power of direction is the right to control the trustee's disposition of title to the real property and the execution of trust documents.

¹ *Hart v. Seymour*, 147 Ill. 598 (Ill. 1893).

² *Schumann-Henk v. Folson*, 159 N.E. 250 (Ill. 1927).

Situations Where a Land Trust May Be Beneficial

A land trust may be useful in situations where multiple owners hold title to real property. In such cases, the potential exists for judgments, divorce, death, bankruptcy or incompetency of a single beneficiary to cloud the title to all or a part of the real property. The use of the land trust prevents the possibility of clouds on the title in these situations.

Where real estate projects are spread across multiple investors, the use of a land trust can reduce delays where signatures must be obtained from remote locations and can facilitate the many conveyances necessary in subdivisions and condominiums.

A key feature of the land trust is that interests of beneficiaries may not be disclosed without a court order. There are situations where purchasers of real estate may wish not to publicize their ownership of that real property. The land trust permits such individuals to keep their names from the public record.

Judgments against the beneficiaries do not affect the legal title to the real property held in a land trust. The title to the real property held in a land trust can be conveyed free and clear of any judgment liens against a beneficiary. Judgments can, however, be enforced against an individual's beneficial interest in a land trust.

The beneficial interest in the land trust is personal property. Non-residents of Florida, by placing title to their real estate in a land trust, may be able to avoid ancillary probate administration in the event of death.

Use of the land trust as a vehicle for holding title to real property permits the preservation of tax benefits under the Internal Revenue Code. All of the tax advantages of individual ownership may be retained when a land trust is properly used to hold title to real property. The deduction for expenses flows directly through the beneficial owners, assuming that all of the criteria to prevent the land trust from becoming an entity taxable as a corporation are met.

Land Trusts in Florida

In Florida, land trusts are presently a creature of statute rather than case law. In 1963, the Florida Legislature created s. 689.071, F.S., which statutorily recognized the Florida Land Trust. Section 689.071(1), F.S., provides that the land trustee receives legal and equitable title to the real property. The deed must be recorded and must give to the trustee full power and authority either to protect, conserve and to sell or to lease, or to encumber or otherwise to manage and dispose of the real property described in the deed. The trustee can only deal with the property within the power and authority granted in the recorded deed.

Section 689.071(2), F.S., states that any grantee, mortgagee, lessee, transferee, assignee, or person obtaining satisfactions or releases from a trustee holding title to real property in trust under a recorded trust deed that meets the requirements of 689.071, F.S., does not have to inquire into the identification or status of any named or unnamed beneficiary, their heirs or assigns or to the authority of the trustee to act within the powers granted in the recorded deed, nor is there any requirement to inquire into the provisions of an unrecorded trust document whether such document is referenced in the deed or not.

Section 689.071(3), F.S., provides that all persons dealing with the trustee under any recorded instrument that has been prepared in accordance with the section takes free and clear of the claims of all named or unnamed beneficiaries of the trust and of any unrecorded declarations or agreements collateral to the trust, whether they are referred to in the agreement or not. This subsection further

provides that anyone claiming under the beneficiaries, including claims arising out of any dower³ or curtesy⁴ interest of the spouse of a beneficiary, does not have a claim against the grantee if all of the provisions of this section have been met.⁵

Section 689.071(4), F.S., states that in all cases where the recorded instrument contains a provision declaring the interest of the beneficiary to be personal property only, that provision shall be controlling for all purposes where such determination becomes an issue under the laws or in the courts of Florida. This provision makes it possible for a beneficiary to convey his or her interest in the real property by assignment of beneficial interest rather than by the execution and recording of a deed.

Courts have held that the statutory land trust is not an ordinary inter vivos trust that is administered under Florida's trust administration laws in ch. 737, F.S.⁶ Florida courts have held that a grantee from a land trustee need not look beyond the trustee's deed in trust to determine his or her powers.⁷ Courts have held that s. 689.071, F.S., is a codification of land trust case law and is an adoption of the Illinois land trust.⁸

Statute of Uses

In the Middle Ages, the features of feudal tenure, primogeniture and forfeiture often resulted in transfers of land to others for the benefit of the grantor. The Statute of Uses, adopted at the time of Henry VIII, was created in order to have these transfers become complete transfers in fee. The result of the execution of a trust under the Statute of Uses was to vest the holder of the "use" with the actual legal estate. However, in spite of the enactment of the Statute of Uses, English courts found that it was inapplicable to active trusts and the concept of trusts remains part of present day law. The Statute of Uses continues as part of the common law of the United States. Florida's Statute of Uses is codified at s. 689.09, F.S.

Homestead Exemption

Article VII, s. 6 of the State Constitution authorizes a \$25,000 ad valorem property tax exemption for homestead property. In 1992, Florida voters approved the so-called "Save Our Homes" amendment to the State Constitution. This amendment limits the annual growth in the assessed value of homestead property to 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less. It also provides for a reassessment of homestead property at just value after any change of ownership.⁹

The beneficiary of a passive trust or active trust has equitable title to real property if he is entitled to the use and occupancy of the property under the terms of the trust, and thus is eligible for the homestead exemption.¹⁰ However, the homestead tax exemption may not be based upon residence of a beneficiary under a trust instrument which vests no present possessory right in such beneficiary.¹¹

³ "Dower" is a common law concept that entitles a widow to a life-estate in a third of any real property of her deceased husband for her support and the support of her children, if any. BLACK'S LAW DICTIONARY (8th ed. 1999).

⁴ "Curtesy" is a common law concept that entitles a widower to a life-estate in any real property of his deceased wife for his support, assuming that a child was born alive to the couple. BLACK'S LAW DICTIONARY (8th ed. 1999).

⁵ Section 732.111, F.S., created in 1974 by s. 1 of ch. 74-106, L.O.F., abolished dower and curtesy in Florida.

⁶ *Taylor v. Richmond's New Approach Association, Inc.*, 351 So.2d 1094 (Fla. 2d DCA 1977).

⁷ *Gramer v. Roman*, 174 So.2d 443 (Fla. 1965).

⁸ *Ferraro v. Parker*, 229 So.2d 621 (Fla. 2d DCA 1969).

⁹ Fla. Const. art. VII, s. 4(c)(3).

¹⁰ Fla Admin Code Rule 12D-7.011.

¹¹ *Id.*

Effect of Proposed Changes

The bill amends s. 689.071, F.S., to codify existing practice and case law in the area of land trusts as follows:

SHORT TITLE - renames the section the "Florida Land Trust Act."

DEFINITIONS - provides definitions of the terms "beneficial interest," "beneficiary," "land trust," "holders of the power of direction," and "trustee."

BENEFICIARY CLAIMS - removes a provision that refers to claims arising out of dower or curtesy.

LAND TRUST BENEFICIARIES - creates provisions relating to land trust beneficiaries to provide that:

- Beneficiaries are not liable, solely by reason of being a beneficiary, for a debt, obligation, or liability of the land trust.
- Beneficiaries acting under a land trust agreement are not liable to the trustee or to any other beneficiary for good-faith reliance on the provisions of the trust agreement.
- Chapter 679, F.S., relating to secured transactions under the Uniform Commercial Code applies to the perfection of any security interest in a beneficial interest in a land trust and that the perfection of a security interest in a beneficial interest in a land trust does not impair or diminish the authority of the trustee under the recorded instrument, and parties dealing with the trustee are not required to inquire into the terms of the unrecorded trust agreement.
- A beneficiary's duties and liabilities may be expanded or restricted in a trust agreement or a beneficiary agreement.
- Any subsequent document appearing of record in which a beneficiary transfers or encumbers the beneficial interest in the trust does not diminish or impair the authority of the trustee under the terms of the recorded instrument and that parties dealing with the trustee are not required to inquire into the terms of the unrecorded trust agreement.
- An unrecorded trust agreement underlying a recorded instrument may provide that one or more persons or entities have the power to direct the trustee to convey, execute a mortgage, distribute proceeds of sale or financing, and execute documents incidental to the land trust.
- The power of direction, unless provided otherwise in the land trust agreement, is conferred upon the holders of the power of direction for the use and benefit of all of the beneficiaries.
- In the absence of a provision in the land trust agreement to the contrary, the power of direction must be in accordance with the percentage of individual ownership.
- In exercising the power of direction, the holders of the power of direction are presumed to act in a fiduciary capacity for the benefit of all beneficiaries, unless it is otherwise provided in the land trust agreement.
- The beneficial interest is indefeasible¹² and the power of direction may not be exercised so as to alter, amend, revoke, terminate, defeat, or otherwise affect or change the enjoyment of any beneficial interest.

¹² "That which cannot be defeated, revoked, or made void." BLACK'S LAW DICTIONARY (8th ed. 1999).

- A trust relating to real estate does not fail, and any use relating to real estate may not be defeated, because beneficiaries are not specified by name in the recorded deed of conveyance to the trustee or because duties are not imposed upon the trustee.
- The power conferred by any recorded deed of conveyance on a trustee to sell, lease, encumber, or otherwise dispose of property is effective and a person dealing with the trustee is not required to inquire any further into the right of the trustee to act or as to the disposition of any proceeds.
- The principal residence of a beneficiary may be entitled to the homestead tax exemption even if the homestead is held by a trustee in a land trust.

SUCCESSOR TRUSTEE - creates provisions relating to a successor trustee to provide that:

- The provisions of s. 737.309, F.S., regarding the resignation of a trustee, do not apply to the appointment of a successor trustee of a land trust.
- If both the recorded instrument and the unrecorded land trust agreement are silent as to the appointment of a successor trustee, then one or more persons or entities having the power of direction of the land trust may appoint a successor or successors by filing a declaration of appointment of a successor trustee. Such a declaration must be signed, acknowledged, and must contain the legal description of the trust property; the name and address of the former trustee; the name and address of the successor trustee; and a statement that the successor trustee has been appointed by one or more persons or entities having the power of direction of the land trust, together with an acceptance of appointment by the successor trustee.
- If the recorded instrument is silent as to the appointment of a successor trustee but an unrecorded land trust agreement provides for the appointment of a successor trustee, then upon the appointment of a successor trustee pursuant to the terms of the unrecorded land trust agreement, the successor trustee shall file a declaration of appointment of a successor trustee.
- If the appointment of the successor trustee is due to the death or incapacity of the former trustee, the declaration need not be signed by the former trustee and a copy of the death certificate or a statement that the former trustee is incapacitated or unable to serve must be attached to or included in the declaration, as applicable.
- If the recorded instrument provides for the appointment of a successor trustee and a successor trustee is appointed in accordance with the recorded instrument, no additional declarations of appointment of a successor trustee are required under this section.
- Each successor land trustee appointed is fully vested with all the estate, properties, rights, powers, trusts, duties, and obligations of the predecessor land trustee, except that the successor land trustee is not under any duty to inquire into the acts or omissions of a predecessor trustee and is not liable for any act or failure to act of a predecessor trustee. A person dealing with the successor trustee pursuant to a declaration is not obligated to inquire into or ascertain the authority of the successor trustee to act within and exercise the powers granted under the recorded instruments or any unrecorded declarations or agreements.
- A land trust agreement may provide that the trustee, when directed to do so by the beneficiaries of the land trust or their legal representatives, may convey the trust property directly to another trustee on behalf of the beneficiaries or others named by the beneficiaries.

TRUSTEE AS CREDITOR - creates provisions relating to a land trustee as a creditor to provide that:

- If a debt is secured by a security interest in a beneficial interest in a land trust or by a mortgage on land trust property, the validity or enforceability of the debt, security interest, or mortgage and the rights, remedies, powers, and duties of the creditor with respect to the debt or the security are not affected by the fact that the creditor and the trustee are the same person or entity, and the creditor may extend credit, obtain such security interest or mortgage, and acquire and deal with the property comprising the security as though the creditor were not the trustee.
- A trustee of a land trust does not breach a fiduciary duty to the beneficiaries, and it may not be deemed evidence of a breach of any fiduciary duty owed by the trustee to the beneficiaries, for a trustee to be or become a secured or unsecured creditor of the land trust, the beneficiary of the land trust, or a third party whose debt to such creditor is guaranteed by a beneficiary of the land trust.

RETROACTIVITY – section 3 of the bill provides that it is intended to clarify the existing law relating to land trusts and that the bill applies to all land trusts, whether the land trust was created before, on, or after the effective date of the bill, which is October 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 689.071, F.S., relating to land trusts.

Section 2: Amends s. 201.02, F.S., relating to tax on deeds to correct a cross-reference.

Section 3: Provides that the act is intended to clarify existing law and applies to all land trusts, whether created before, on, or after October 1, 2006.

Section 4: Provides that the bill becomes effective on October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any significant economic impact on the private sector. It is intended to clarify and codify existing law relating to land trusts. In that vein, it may provide consistency and predictability to this area of law and benefit those who use and administer land trusts.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require counties or cities to: spend funds or take action requiring the expenditure of funds; reduce the authority of counties or cities to raises revenues in the aggregate; or reduce the percentage of a state tax shared with counties or cities.

2. Other:

Retroactivity

Unless the Legislature states otherwise, legislation is presumed to operate prospectively only, especially when retrospective operation would impair existing rights.¹³ Common law provides that the government, through rule or legislation, cannot adversely affect substantive rights once such rights have vested.¹⁴ Courts have used a weighing process to decide whether to sustain the retroactive application of a statute that has three considerations: the strength of the public interest served by the statute, the extent to which the right affected is abrogated, and the nature of the right affected.¹⁵ It does not appear that the provisions of this bill will affect any vested substantive rights since it is intended to clarify and codify existing law relating to land trusts and is remedial in nature.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A

¹³ *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So.2d 55 (Fla. 1995); *Alamo Rent-A-Car, Inc. v. Mancusi*, 632 So.2d 1352 (Fla. 1994).

¹⁴ *Bitterman v. Bitterman*, 714 So.2d 356 (Fla. 1998); *Dept. of Transportation v. Knowles*, 402 So. 2d 1155, 1157 (Fla. 1981); and *Village of El Portal v. City of Miami Shores*, 362 So. 2d 275, 277 (Fla. 1978), citing *McCord v. Smith*, 43 So. 2d 704, 708-709 (Fla. 1949).

¹⁵ *Supra Knowles* at 1158.

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A bill to be entitled

An act relating to land trusts; amending s. 689.071, F.S.; creating the Florida Land Trust Act; providing definitions; deleting a requirement that a land trustee be qualified to act as a fiduciary; deleting obsolete references to "dower" and "curtesy"; providing certain rights, liabilities, and duties of land trust beneficiaries; providing that the principal residence of a beneficiary which is held in a land trust may be entitled to the homestead tax exemption; providing for the appointment of successor trustees; providing requirements for declarations of appointment; providing that a trustee of a land trust may also be a creditor of the trust or of a beneficiary of the trust; amending s. 201.02, F.S., relating to the tax on deeds and other instruments; conforming a cross-reference; providing for applicability of the act to all land trusts whenever created; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 689.071, Florida Statutes, is amended to read:

689.071 Florida Land Trust Act ~~trusts transferring interests in real estate; ownership vests in trustee.--~~

(1) SHORT TITLE.--This section may be cited as the "Florida Land Trust Act."

(2) DEFINITIONS.--As used in this section, the term:

(a) "Beneficial interest" means any interest, vested or

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contingent and regardless of how small or minimal such interest may be, in a land trust which is held by a beneficiary.

(b) "Beneficiary" means any person or entity having a beneficial interest in a land trust. A trustee may be a beneficiary of the land trust in which such trustee serves as trustee.

(c) "Land trust" is not the creation of an entity, but means any express agreement or arrangement whereof a use, confidence, or trust is declared of any land, or of any charge upon land, for the use or benefit of any beneficiary, under which the title to real property, both legal and equitable, is held by a trustee, subject only to the execution of the trust, which may be enforced by the beneficiaries.

(d) "Holders of the power of direction" means the persons or entities having the authority to direct the trustee to convey, execute a mortgage, distribute proceeds of sale or financing, and execute documents incidental to the execution of a land trust.

(e) "Trustee" means the person or entity designated in a trust instrument to hold legal and equitable title to the land trust property.

(3)-(1) OWNERSHIP VESTS IN TRUSTEE.--Every conveyance, deed, mortgage, lease assignment, or other instrument heretofore or hereafter made, hereinafter referred to as "the recorded instrument," transferring any interest in real property in this state, including, but not limited to, a leasehold or mortgagee interest, to any person or to any corporation, bank, trust company, or other entity duly formed under the laws of its state of qualification ~~qualified to act as a fiduciary in this state,~~ in which recorded instrument the person, corporation, bank, trust

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59 company, or other entity is designated "trustee," or "as
60 trustee," without therein naming the beneficiaries of such trust,
61 whether or not reference is made in the recorded instrument to
62 any separate collateral unrecorded declarations or agreements, is
63 effective to vest, and is hereby declared to have vested, in such
64 trustee full rights of ownership over the real property or
65 interest therein, with full power and authority as granted and
66 provided in the recorded instrument to deal in and with the
67 property or interest therein or any part thereof; provided, the
68 recorded instrument confers on the trustee the power and
69 authority ~~either~~ to protect, conserve and to sell, or to lease,
70 or to encumber, or otherwise to manage and dispose of the real
71 property described in the recorded instrument.

72 (4)-(2) NO DUTY TO INQUIRE.--Any grantee, mortgagee, lessee,
73 transferee, assignee, or person obtaining satisfactions or
74 releases or otherwise in any way dealing with the trustee with
75 respect to the real property or any interest therein properties
76 held in trust under the recorded instrument, as hereinabove
77 provided ~~for~~, is not obligated to inquire into the identification
78 or status of any named or unnamed beneficiaries, or their heirs
79 or assigns to whom a trustee may be accountable under the terms
80 of the recorded instrument, or under any unrecorded separate
81 declarations or agreements collateral to the recorded instrument,
82 whether or not such declarations or agreements are referred to
83 therein; ~~or~~ to inquire into or ascertain the authority of such
84 trustee to act within and exercise the powers granted under the
85 recorded instrument; ~~or~~ to inquire into the adequacy or
86 disposition of any consideration, if any is paid or delivered to
87 such trustee in connection with any interest so acquired from

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such trustee; or to inquire into any of the provisions of any such unrecorded declarations or agreements.

(5)-(3) BENEFICIARY CLAIMS.--All persons dealing with the trustee under the recorded instrument as hereinabove provided take any interest transferred by the trustee thereunder, within the power and authority as granted and provided therein, free and clear of the claims of all the named or unnamed beneficiaries of such trust, and of any unrecorded declarations or agreements collateral thereto whether referred to in the recorded instrument or not, and of anyone claiming by, through, or under such beneficiaries. However, this section does not prevent including, and without limiting the foregoing to, any claim arising out of any dower or curtesy interest of the spouse of any beneficiary thereof, provided, nothing herein contained prevents a beneficiary of any such unrecorded collateral declarations or agreements from enforcing the terms thereof against the trustee.

(6)-(4) PERSONAL PROPERTY.--In all cases in which the recorded instrument, as hereinabove provided, contains a provision defining and declaring the interests of beneficiaries thereunder to be personal property only, such provision shall be controlling for all purposes when such determination becomes an issue under the laws or in the courts of this state.

(7)-(5) TRUSTEE LIABILITY.--In addition to any other limitation on personal liability existing pursuant to statute or otherwise, the provisions of s. 737.306 apply to the trustee of a land trust created pursuant to this section.

(8) LAND TRUST BENEFICIARIES.--

(a) Except as provided in this section, the beneficiaries of a land trust are not liable, solely by reason of being a

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117 beneficiary, under a judgment, decree, or order of court or in
118 any other manner for a debt, obligation, or liability of the land
119 trust.

120 (b) Any beneficiary acting under the trust agreement of a
121 land trust is not liable to the land trustee or to any other
122 beneficiary for the beneficiary's good-faith reliance on the
123 provisions of the trust agreement.

124 (c) Chapter 679 applies to the perfection of any security
125 interest in a beneficial interest in a land trust. The perfection
126 of a security interest in a beneficial interest in a land trust
127 does not impair or diminish the authority of the trustee under
128 the recorded instrument, and parties dealing with the trustee are
129 not required to inquire into the terms of the unrecorded trust
130 agreement.

131 (d) The beneficiary's duties and liabilities may be
132 expanded or restricted in a trust agreement or beneficiary
133 agreement.

134 (e) Any subsequent document appearing of record in which a
135 beneficiary of a trust transfers or encumbers the beneficial
136 interest in the trust does not diminish or impair the authority
137 of the trustee under the terms of the recorded instrument.
138 Parties dealing with the trustee are not required to inquire into
139 the terms of the unrecorded trust agreement.

140 (f) The unrecorded trust agreement underlying the recorded
141 instrument may provide that one or more persons or entities have
142 the power to direct the trustee to convey, execute a mortgage,
143 distribute proceeds of sale or financing, and execute documents
144 incidental to the land trust. The power of direction, unless
145 provided otherwise in the land trust agreement, is conferred upon

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the holders thereof for the use and benefit of all of the holders of the beneficial interest in the land trust. In the absence of a provision in the land trust agreement to the contrary, the power of direction shall be in accordance with the percentage of individual ownership. In exercising the power of direction, the holders of the power of direction are presumed to act in a fiduciary capacity for the benefit of all holders of the beneficial interest in the trust, unless otherwise provided in the land trust agreement. The beneficial interest is indefeasible and the power of direction may not be exercised so as to alter, amend, revoke, terminate, defeat, or otherwise affect or change the enjoyment of any beneficial interest.

(g) A trust relating to real estate does not fail, and any use relating to real estate may not be defeated, because beneficiaries are not specified by name in the recorded deed of conveyance to the trustee or because duties are not imposed upon the trustee. The power conferred by any recorded deed of conveyance on a trustee to sell, lease, encumber, or otherwise dispose of property therein described is effective and a person dealing with the trustee is not required to inquire any further into the right of the trustee to act and the disposition of any proceeds.

(h) The principal residence of a beneficiary may be entitled to the homestead tax exemption even if the homestead is held by a trustee in a land trust.

(9) SUCCESSION TRUSTEE.--

(a) The provisions of s. 737.309 regarding the resignation of a trustee do not apply to the appointment of a successor trustee under this section.

175 (b) If both the recorded instrument and the unrecorded land
176 trust agreement are silent as to the appointment of a successor
177 trustee in the event of the death, incapacity, resignation, or
178 termination due to dissolution, of a land trustee, or if a land
179 trustee is unable to serve, then one or more persons or entities
180 having the power of direction of the land trust agreement may
181 appoint a successor or successors to the trust property by filing
182 a declaration of appointment of a successor trustee in the office
183 of the recorder in the county in which the trust property is
184 located. The declaration must be signed by a beneficiary or
185 beneficiaries of the trust and by the successor trustee, must be
186 acknowledged in the manner provided for acknowledgment of deeds,
187 and must contain:

- 188 1. The legal description of the trust property;
189 2. The name and address of the former trustee;
190 3. The name and address of the successor trustee; and
191 4. A statement that the successor trustee has been
192 appointed by one or more persons or entities having the power of
193 direction of the land trust, together with an acceptance of
194 appointment by the successor trustee.

195 (c) If the recorded instrument is silent as to the
196 appointment of a successor trustee but an unrecorded land trust
197 agreement provides for the appointment of a successor trustee in
198 the event of the death, incapacity, resignation, or termination
199 due to dissolution, then upon the appointment of a successor
200 trustee pursuant to the terms of the unrecorded land trust
201 agreement, the successor trustee shall file a declaration of
202 appointment of a successor trustee in the office of the recorder
203 in the county in which the trust property is located. The

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declaration must be signed by both the former trustee and the
successor trustee, must be acknowledged in the manner provided
for acknowledgment of deeds, and must contain:

1. The legal description of the trust property;
2. The name and address of the former trustee;
3. The name and address of the successor trustee;
4. A statement of resignation by the former trustee and a
statement of acceptance of appointment by the successor trustee;
and

5. A statement that the successor trustee was duly
appointed under the terms of the unrecorded land trust agreement.

If the appointment of the successor trustee is due to the death
or incapacity of the former trustee, the declaration need not be
signed by the former trustee and a copy of the death certificate
or a statement that the former trustee is incapacitated or unable
to serve must be attached to or included in the declaration, as
applicable.

(d) If the recorded instrument provides for the appointment
of a successor trustee and a successor trustee is appointed in
accordance with the recorded instrument, no additional
declarations of appointment of a successor trustee are required
under this section.

(e) Each successor land trustee appointed is fully vested
with all the estate, properties, rights, powers, trusts, duties,
and obligations of the predecessor land trustee, except that the
successor land trustee is not under any duty to inquire into the
acts or omissions of a predecessor trustee and is not liable for
any act or failure to act of a predecessor trustee. A person

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dealing with the successor trustee pursuant to a declaration
filed under this act is not obligated to inquire into or
ascertain the authority of the successor trustee to act within
and exercise the powers granted under the recorded instruments or
any unrecorded declarations or agreements.

(f) A land trust agreement may provide that the trustee,
when directed to do so by the beneficiaries of the land trust or
their legal representatives, may convey the trust property
directly to another trustee on behalf of the beneficiaries or
others named by the beneficiaries.

(10) TRUSTEE AS CREDITOR.--

(a) If a debt is secured by a security interest in a
beneficial interest in a land trust or by a mortgage on land
trust property, the validity or enforceability of the debt,
security interest, or mortgage and the rights, remedies, powers,
and duties of the creditor with respect to the debt or the
security are not affected by the fact that the creditor and the
trustee are the same person or entity, and the creditor may
extend credit, obtain such security interest or mortgage, and
acquire and deal with the property comprising the security as
though the creditor were not the trustee.

(b) A trustee of a land trust does not breach a fiduciary
duty to the beneficiaries, and it may not be deemed evidence of a
breach of any fiduciary duty owed by the trustee to the
beneficiaries, for a trustee to be or become a secured or
unsecured creditor of the land trust, the beneficiary of the land
trust, or a third party whose debt to such creditor is guaranteed
by a beneficiary of the land trust.

~~(11)~~ (6) REMEDIAL ACT.--This act is remedial in nature and

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shall be given a liberal interpretation to effectuate the intent and purposes hereinabove expressed.

~~(12)(7)~~ EXCLUSION.--This act does not apply to any deed, mortgage, or other instrument to which s. 689.07 applies.

Section 2. Subsection (4) of section 201.02, Florida Statutes, is amended to read:

201.02 Tax on deeds and other instruments relating to real property or interests in real property.--

(4) The tax imposed by subsection (1) shall also be payable upon documents which convey or transfer, pursuant to s. 689.071, any beneficial interest in lands, tenements, or other real property, or any interest therein, even though such interest may be designated as personal property, notwithstanding the provisions of s. 689.071(6) ~~s. 689.071(4)~~. The tax shall be paid upon execution of any such document.

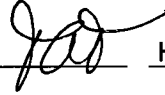

Section 3. This act is intended to clarify existing law and applies to all land trusts whether created before, on, or after October 1, 2006.

Section 4. This act shall take effect October 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB JU 06-05
SPONSOR(S): Judiciary Committee
TIED BILLS:

Constitutional Revision
IDEN./SIM. BILLS: SJR 7086

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Judiciary Committee		Thomas 	Hogge 
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The proposed joint resolution makes technical and other non-substantive changes to numerous sections of the Florida Constitution. These changes were identified by the Division of Statutory Revision. The changes include:

- grammatical, punctuation, and spelling corrections
- removal of obsolete language
- gender neutral revisions

Additionally, the proposed joint resolution repeals language providing for term limits on federal officeholders that was found to be unconstitutional by the Florida Supreme Court in 1999.

The joint resolution does not appear to have any fiscal impact on state or local government other than those costs related to placing the joint resolution on the ballot and publishing required notices. The Department of State estimates non-recurring publication costs of approximately \$50,000 for FY 2006-07.

The joint resolution does not contain a specific effective date. Therefore, if adopted by the voters, it will take effect on January 2, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The proposed joint resolution does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Revision or Amendment to the Constitution

Amendments to Florida's Constitution can be proposed by five distinct methods: 1) joint legislative resolution, 2) the Constitutional Revision Commission, 3) citizen's initiative, 4) a constitutional convention, or 5) the Taxation and Budget Reform Commission.¹ Depending on the method, all proposed amendments or revisions to the constitution must be submitted to the electors at the next general election: 1) held more than ninety days after the joint resolution, 2) 180 days after the report of the Constitutional Revision Commission or Taxation Budget Reform Commission, or 3) for citizen initiatives, if all the required signatures were submitted prior to February 1 of the year in which the general election is to be held.²

A proposed constitutional amendment or revision is adopted upon approval of a majority of electors voting on the proposal.³ However, a new State tax or fee proposed by constitutional amendment or revision must be adopted by at least two-thirds of those voting in the election in which such amendment is considered.⁴

Florida Constitution – Organization of Articles

ARTICLE I	DECLARATION OF RIGHTS
ARTICLE II	GENERAL PROVISIONS
ARTICLE III	LEGISLATURE
ARTICLE IV	EXECUTIVE
ARTICLE V	JUDICIARY
ARTICLE VI	SUFFRAGE AND ELECTIONS
ARTICLE VII	FINANCE AND TAXATION
ARTICLE VIII	LOCAL GOVERNMENT
ARTICLE IX	EDUCATION
ARTICLE X	MISCELLANEOUS
ARTICLE XI	AMENDMENTS
ARTICLE XII	SCHEDULE

¹ See Art. XI, ss. 1-4 & 6, Fla. Const.

² See Art. XI, ss. 2, 5, and 6, Fla. Const.

³ See Art. XI, s. 5(e), Fla. Const.

⁴ See Art. XI, s. 7, Fla. Const.

Statistical Summary of Amendments to the Constitution Since 1968

Constitutional Revision Commission – 8 amendments adopted

1978 - proposed 8, none adopted

1998 - proposed 9, 8 adopted

Taxation and Budget Reform Commission – 2 amendments adopted:

1992 – proposed 3, 2 adopted

Citizen Initiatives – 21 amendments:

proposed 26, 21 adopted

Legislature - 71 amendments adopted:

proposed 87, 71 adopted, 16 rejected

TOTAL – 102 amendments to Florida's Constitution since 1968.

Effect of Joint Resolution

The proposed joint resolution makes technical and other non-substantive changes to numerous sections of the Florida Constitution. These changes were identified by the Division of Statutory Revision. The changes include:

- grammatical, punctuation, and spelling corrections
- removal of obsolete language
- gender neutral revisions

Technical Changes

The removal of obsolete language includes past effective dates and implementation dates and transitional provisions. The removed transitional obsolete language is described as follows:

- Section 19(g), Art. III, State Const., pertains to the budget stabilization fund. The first two sentences of subsection (g), which provide for the initial funding of the fund, were not relevant past the 1998-1999 fiscal year. The 1998-1999 fiscal year was the year in which the fund had to be fully funded.
- Section 20(d)(6), Art. V, State Const., provided for the certification of the need for new judges and creation of new judgeships in 1972. This provision had no continuing significance past 1972.
- Section 20(d)(10), Art. V, State Const., states that the offices of county solicitor and prosecuting attorney are abolished and provides that the individuals filling those positions become assistant state attorneys. The transition described in subsection (d)(10) occurred on the effective date of Art. V, State Const., which was January 1, 1973.

- Section 20(e)(1), Art. V, State Const., provides that certain officeholders in office on January 1, 1973, shall remain in their offices for the remainder of their terms. The terms to the offices to which subsection (e)(1) applied have since expired.
- Section 20(g), Art. V, State Const., provides that certain provisions of the Judiciary Article of the Constitution of 1885 are preserved as statutes. The provisions to which subsection 20(g) applied were repealed by ch. 73-303, L.O.F.
- Section 20(h), Art. V, State Const., provides that county court and municipal court judges did not have to be compensated by state salaries until January 3, 1977. Subsection (h) had no continuing significance past January 3, 1977.
- Section(1)(e), Art. VII, State Const., limits the growth of state revenues. One sentence of subsection (e) describes the limit on revenues for the 1995-1996 fiscal year. That sentence had no continuing significance after the 1995-1996 fiscal year.
- Section 3, Art. XII, State Const., provides that officeholders in office when the Constitution of 1968 became effective continue in their offices, unless their offices were abolished. Officers whose offices were abolished would be compensated by law. This section was only relevant immediately after the Constitution of 1968 was adopted.
- Section 16, Art. XII, State Const., provides that the executive branch of government must be organized into no more than 25 departments by July 1, 1969. The date referenced in section 16 had no continuing significance past July 1, 1969.
- Section 25, Art. XII, State Const., provides for the gradual implementation of state funding for the state courts system as required by s. 14, Art. V, State Const. Further, the section provides for full implementation by July 1, 2004. Section 14, Art. V, State Const., has been fully implemented, and the implementation date has expired. As such, s. 25, Art. XII, State Const., has no continuing significance.

Federal Office Term Limits

The proposed joint resolution repeals language in section 4(b)(5) and (6), Art. VI, State Const., providing for term limits on federal officeholders that was found to be unconstitutional by the Florida Supreme Court in 1999. The U.S. Supreme Court, ruling in 1995 on an Arkansas state constitutional provision, determined that state-created term limits on federal officeholders are unconstitutional under the Qualifications Clause of the U.S. Constitution.⁵ The Florida Supreme Court stated that:

there is no question but that . . . section 4(b)(5) and 6 of article VI[, State Const.], placing limits on the terms of the U.S. Representatives and U.S. Senators, are unenforceable as violative of the United States [Constitution].⁶

Effective Date

The joint resolution does not contain a specific effective date. Therefore, if adopted by the voters, it will take effect January 2, 2007.⁷

⁵ *U.S. Term Limits, Inc., v. Thornton*, 514 U.S. 779 (1995).

⁶ *Ray v. Mortham*, 742 So. 2d 1276, 1280 (Fla. 1999).

⁷ Art. XI, s. 5(e), Fla. Const., provides: "If the proposed amendment or revision is approved by vote of the electors, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision."

Appearance on the Ballot

If enacted, the proposed constitutional amendment will appear on the November 2006 ballot as follows:

MULTIPLE ARTICLES

OBSOLETE AND ERRONEOUS PROVISIONS.--Proposing revisions to multiple articles of the State Constitution to delete obsolete provisions and to correct grammar errors and inconsistencies in wording.

C. SECTION DIRECTORY:

The joint resolution proposes technical and conforming changes to numerous articles of the Florida Constitution. The legislation is a joint resolution proposing a constitutional amendment and, therefore, does not contain bill sections.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The joint resolution does not appear to have any impact on state revenues.

2. Expenditures:

Non-Recurring

FY 2006-07

Department Of State, Division of Elections

Publication Costs

\$50,000 (General Revenue)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The joint resolution does not appear to have any impact on local government revenues.

2. Expenditures:

The joint resolution does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The proposed joint resolution makes technical and other non-substantive changes to numerous sections of the Florida Constitution. It does not have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

The Florida Constitution requires publication of a proposed amendment or revision to the constitution in one newspaper of general circulation in each county in which a newspaper is published, once in the tenth week and once in the sixth week immediately preceding the week in which the election is held.⁸ The Division of Elections with the Department of State estimates that the non-recurring cost of compliance would be approximately \$50,000 in FY 2006-07.

⁸ See Art. XI, s. 5(c), Fla. Const.
STORAGE NAME: pcb05.JU.doc
DATE: 3/6/2006

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision relates only to general bills and therefore would not apply to this joint resolution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The joint resolution does not raise the need for rules or rulemaking authority or direct an agency to adopt rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Amendments or revisions to the Florida Constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the Legislature.⁹ Passage in a committee requires a simple majority vote. If the joint resolution is passed in this session, the proposed amendment would be placed before the electorate at the 2006 general election, unless it is submitted at an earlier special election pursuant to a law enacted by an affirmative vote of three-fourths of the membership of each house of the Legislature and is limited to a single amendment or revision.¹⁰ Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, must be published in one newspaper of general circulation in each county in which a newspaper is published.¹¹

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

⁹ See Art. XI, s. 1, Fla. Const.

¹⁰ See Art. XI, s. 5(a), Fla. Const. The 2006 general election is on November 7, 2006.

¹¹ See Art. XI, s. 5(c), Fla. Const.

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House Joint Resolution

A joint resolution proposing the revision of the whole State Constitution to correct spelling errors, punctuation errors, inconsistent use of capitalization, and other technical issues; to repeal obsolete provisions.

Be It Resolved by the Legislature of the State of Florida:

That the following revision to the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

PREAMBLE

We, the people of the State of Florida, being grateful to Almighty God for our constitutional liberty, in order to secure its benefits, perfect our government, ensure ~~insure~~ domestic tranquility, maintain public order, and guarantee equal civil and political rights to all, do ordain and establish this constitution.

ARTICLE I

DECLARATION OF RIGHTS

SECTION 1. Political power.--All political power is inherent in the people. The enunciation herein of certain rights shall not be construed to deny or impair others retained by the people.

SECTION 2. Basic rights.--All natural persons, female and

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male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess, and protect property; except that the ownership, inheritance, disposition, and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race, religion, national origin, or physical disability.

SECTION 3. Religious freedom.--There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace, or safety. No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

SECTION 4. Freedom of speech and press.--Every person may speak, write, and publish sentiments on all subjects but shall be responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for defamation, the truth may be given in evidence. If the matter charged as defamatory is true and was published with good motives, the party shall be acquitted or exonerated.

SECTION 5. Right to assemble.--The people shall have the right peaceably to assemble, to instruct their representatives, and to petition for redress of grievances.

SECTION 6. Right to work.--The right of persons to work shall not be denied or abridged on account of membership or

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nonmembership ~~non-membership~~ in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike.

SECTION 7. Military power.--The military power shall be subordinate to the civil.

SECTION 8. Right to bear arms.--

(a) The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law.

(b) There shall be a mandatory period of three days, excluding weekends and legal holidays, between the purchase and delivery at retail of any handgun. For the purposes of this section, "purchase" means the transfer of money or other valuable consideration to the retailer, and "handgun" means a firearm capable of being carried and used by one hand, such as a pistol or revolver. Holders of a concealed weapon permit as prescribed in Florida law shall not be subject to the provisions of this paragraph.

(c) The legislature shall enact legislation implementing subsection (b) of this section, ~~effective no later than December 31, 1991,~~ which shall provide that anyone violating the provisions of subsection (b) shall be guilty of a felony.

(d) This restriction shall not apply to a trade in of another handgun.

SECTION 9. Due process.--No person shall be deprived of life, liberty, or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in

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any criminal matter to be a witness against oneself.

SECTION 10. Prohibited laws.--No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall be passed.

SECTION 11. Imprisonment for debt.--No person shall be imprisoned for debt, except in cases of fraud.

SECTION 12. Searches and seizures.--The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated. No warrant shall be issued except upon probable cause, supported by affidavit, particularly describing the place or places to be searched; the person or persons, thing, or things to be seized; the communication to be intercepted; and the nature of evidence to be obtained. This right shall be construed in conformity with the Fourth 4th Amendment to the United States Constitution, as interpreted by the United States Supreme Court. Articles or information obtained in violation of this right shall not be admissible in evidence if such articles or information would be inadmissible under decisions of the United States Supreme Court construing the Fourth 4th Amendment to the United States Constitution.

SECTION 13. Habeas corpus.--The writ of habeas corpus shall be grantable of right, freely and without cost. It shall be returnable without delay, and shall never be suspended unless, in case of rebellion or invasion, suspension is essential to the public safety.

SECTION 14. Pretrial release and detention.--Unless charged with a capital offense or an offense punishable by life

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imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.

SECTION 15. Prosecution for crime; offenses committed by children.--

(a) No person shall be tried for capital crime without presentment or indictment by a grand jury, or for other felony without such presentment or indictment or an information under oath filed by the prosecuting officer of the court, except persons on active duty in the militia when tried by courts-
martial ~~courts-martial~~.

(b) When authorized by law, a child as therein defined may be charged with a violation of law as an act of delinquency instead of crime and tried without a jury or other requirements applicable to criminal cases. Any child so charged shall, upon demand made as provided by law before a trial in a juvenile proceeding, be tried in an appropriate court as an adult. A child found delinquent shall be disciplined as provided by law.

SECTION 16. Rights of accused and of victims.--

(a) In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of the accusation, and shall be furnished a copy of the charges, and shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or

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both, and to have a speedy and public trial by impartial jury in the county where the crime was committed. If the county is not known, the indictment or information may charge venue in two or more counties conjunctively and proof that the crime was committed in that area shall be sufficient; but before pleading the accused may elect in which of those counties the trial will take place. Venue for prosecution of crimes committed beyond the boundaries of the state shall be fixed by law.

(b) Victims of crime or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard when relevant, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused.

SECTION 17. Excessive punishments.--Excessive fines, cruel and unusual punishment, attainder, forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden. The death penalty is an authorized punishment for capital crimes designated by the legislature. The prohibition against cruel or unusual punishment, and the prohibition against cruel and unusual punishment, shall be construed in conformity with decisions of the United States Supreme Court which interpret the prohibition against cruel and unusual punishment provided in the Eighth Amendment to the United States Constitution. Any method of execution shall be allowed, unless prohibited by the United States Constitution. Methods of execution may be designated by the legislature, and a change in any method of execution may be applied retroactively. A sentence of death shall not be reduced on the basis that a method of execution is

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175 invalid. In any case in which an execution method is declared
176 invalid, the death sentence shall remain in force until the
177 sentence can be lawfully executed by any valid method. This
178 section shall apply retroactively.

179 SECTION 18. Administrative penalties.--No administrative
180 agency, except the Department of Military Affairs in an
181 appropriately convened court-martial action as provided by law,
182 shall impose a sentence of imprisonment, nor shall it impose any
183 other penalty except as provided by law.

184 SECTION 19. Costs.--No person charged with crime shall be
185 compelled to pay costs before a judgment of conviction has become
186 final.

187 SECTION 20. Treason.--Treason against the state shall
188 consist only in levying war against it, adhering to its enemies,
189 or giving them aid and comfort, and no person shall be convicted
190 of treason except on the testimony of two witnesses to the same
191 overt act or on confession in open court.

192 SECTION 21. Access to courts.--The courts shall be open to
193 every person for redress of any injury, and justice shall be
194 administered without sale, denial, or delay.

195 SECTION 22. Trial by jury.--The right of trial by jury
196 shall be secure to all and remain inviolate. The qualifications
197 and the number of jurors, not fewer than six, shall be fixed by
198 law.

199 SECTION 23. Right of privacy.--Every natural person has the
200 right to be let alone and free from governmental intrusion into
201 the person's private life except as otherwise provided herein.
202 This section shall not be construed to limit the public's right
203 of access to public records and meetings as provided by law.

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204 SECTION 24. Access to public records and meetings.--

205 (a) Every person has the right to inspect or copy any
206 public record made or received in connection with the official
207 business of any public body, officer, or employee of the state,
208 or persons acting on their behalf, except with respect to records
209 exempted pursuant to this section or specifically made
210 confidential by this Constitution. This section specifically
211 includes the legislative, executive, and judicial branches of
212 government and each agency or department created thereunder;
213 counties, municipalities, and districts; and each constitutional
214 officer, board, and commission, or entity created pursuant to law
215 or this Constitution.

216 (b) All meetings of any collegial public body of the
217 executive branch of state government or of any collegial public
218 body of a county, municipality, school district, or special
219 district, at which official acts are to be taken or at which
220 public business of such body is to be transacted or discussed,
221 shall be open and noticed to the public and meetings of the
222 legislature shall be open and noticed as provided in Article III,
223 Section 4(e), except with respect to meetings exempted pursuant
224 to this section or specifically closed by this Constitution.

225 (c) This section shall be self-executing. The legislature,
226 however, may provide by general law passed by a two-thirds vote
227 of each house for the exemption of records from the requirements
228 of subsection (a) and the exemption of meetings from the
229 requirements of subsection (b), provided that such law shall
230 state with specificity the public necessity justifying the
231 exemption and shall be no broader than necessary to accomplish
232 the stated purpose of the law. The legislature shall enact laws

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governing the enforcement of this section, including the maintenance, control, destruction, disposal, and disposition of records made public by this section, except that each house of the legislature may adopt rules governing the enforcement of this section in relation to records of the legislative branch. Laws enacted pursuant to this subsection shall contain only exemptions from the requirements of subsection ~~subsections~~ (a) or subsection (b) and provisions governing the enforcement of this section, and shall relate to one subject.

(d) All laws that are in effect on July 1, 1993 that limit public access to records or meetings shall remain in force, and such laws apply to records of the legislative and judicial branches, until they are repealed. Rules of court that are in effect on the date of adoption of this section that limit access to records shall remain in effect until they are repealed.

SECTION 25. Taxpayers' Bill of Rights.--By general law the legislature shall prescribe and adopt a Taxpayers' Bill of Rights that, in clear and concise language, sets forth taxpayers' rights and responsibilities and government's responsibilities to deal fairly with taxpayers under the laws of this state. ~~This section shall be effective July 1, 1993.~~

SECTION 26. Claimant's right to fair compensation.--

~~(a) Article I, Section 26 is created to read "Claimant's right to fair compensation."~~ In any medical liability claim involving a contingency fee, the claimant is entitled to receive no less than 70 percent ~~70%~~ of the first \$250,000 ~~\$250,000.00~~ in all damages received by the claimant, exclusive of reasonable and customary costs, whether received by judgment, settlement, or otherwise, and regardless of the number of defendants. The

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claimant is entitled to 90 percent 90% of all damages in excess of \$250,000 ~~\$250,000.00~~, exclusive of reasonable and customary costs and regardless of the number of defendants. This provision is self-executing and does not require implementing legislation.

~~(b) This Amendment shall take effect on the day following approval by the voters.~~

ARTICLE II

GENERAL PROVISIONS

SECTION 1. State boundaries.--

(a) The state boundaries are: Begin at the mouth of the Perdido River, which for the purposes of this description is defined as the point where latitude 30°16'53" north and longitude 87°31'06" west intersect; thence to the point where latitude 30°17'02" north and longitude 87°31'06" west intersect; thence to the point where latitude 30°18'00" north and longitude 87°27'08" west intersect; thence to the point where the center line of the Intracoastal Canal (as the same existed on June 12, 1953) and longitude 87°27'00" west intersect; the same being in the middle of the Perdido River; thence up the middle of the Perdido River to the point where it intersects the south boundary of the State of Alabama, being also the point of intersection of the middle of the Perdido River with latitude 31°00'00" north; thence east, along the south boundary line of the State of Alabama, the same being latitude 31°00'00" north to the middle of the Chattahoochee River; thence down the middle of said river to its confluence with the Flint River; thence in a straight line to the head of the St. Marys River; thence down the middle of said river to the Atlantic Ocean; thence due east to the edge of the Gulf Stream or

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291 a distance of three geographic miles whichever is the greater
 292 distance; thence in a southerly direction along the edge of the
 293 Gulf Stream or along a line three geographic miles from the
 294 Atlantic coastline and three leagues distant from the Gulf of
 295 Mexico coastline, whichever is greater, to and through the
 296 Straits of Florida and westerly, including the Florida reefs, to
 297 a point due south of and three leagues from the southernmost
 298 point of the Marquesas Keys; thence westerly along a straight
 299 line to a point due south of and three leagues from Loggerhead
 300 Key, the westernmost of the Dry Tortugas Islands; thence
 301 westerly, northerly and easterly along the arc of a curve three
 302 leagues distant from Loggerhead Key to a point due north of
 303 Loggerhead Key; thence northeast along a straight line to a point
 304 three leagues from the coastline of Florida; thence northerly and
 305 westerly three leagues distant from the coastline to a point west
 306 of the mouth of the Perdido River three leagues from the
 307 coastline as measured on a line bearing south 0°01'00" west from
 308 the point of beginning; thence northerly along said line to the
 309 point of beginning. The State of Florida shall also include any
 310 additional territory within the United States adjacent to the
 311 Peninsula of Florida lying south of the St. Marys River, east of
 312 the Perdido River, and south of the States of Alabama and
 313 Georgia.

314 (b) The coastal boundaries may be extended by statute to
 315 the limits permitted by the laws of the United States or
 316 international law.

317 SECTION 2. Seat of government.--The seat of government
 318 shall be the City of Tallahassee, in Leon County, where the
 319 offices of the governor, lieutenant governor, cabinet members,

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and the supreme court shall be maintained and the sessions of the legislature shall be held; provided that, in time of invasion or grave emergency, the governor by proclamation may for the period of the emergency transfer the seat of government to another place.

SECTION 3. Branches of government.--The powers of the state government shall be divided into legislative, executive, and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.

SECTION 4. State seal and flag.--The design of the great seal and flag of the state shall be prescribed by law.

SECTION 5. Public officers.--

(a) No person holding any office of emolument under any foreign government, or civil office of emolument under the United States or any other state, shall hold any office of honor or of emolument under the government of this state. No person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein, except that a notary public or military officer may hold another office, and any officer may be a member of a constitution revision commission, taxation and budget reform commission, constitutional convention, or statutory body having only advisory powers.

(b) Each state and county officer, before entering upon the duties of the office, shall give bond as required by law, and shall swear or affirm:

"I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to

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hold office under the Constitution of the state; and that I will well and faithfully perform the duties of (title of office) on which I am now about to enter. So help me God.",

and thereafter shall devote personal attention to the duties of the office, and continue in office until a successor qualifies.

(c) The powers, duties, compensation, and method of payment of state and county officers shall be fixed by law.

SECTION 6. Enemy attack.--In periods of emergency resulting from enemy attack the legislature shall have power to provide for prompt and temporary succession to the powers and duties of all public offices the incumbents of which may become unavailable to execute the functions of their offices, and to adopt such other measures as may be necessary and appropriate to ensure ~~insure~~ the continuity of governmental operations during the emergency. In exercising these powers, the legislature may depart from other requirements of this constitution, but only to the extent necessary to meet the emergency.

SECTION 7. Natural resources and scenic beauty.--

(a) It shall be the policy of the state to conserve and protect its natural resources and scenic beauty. Adequate provision shall be made by law for the abatement of air and water pollution and of excessive and unnecessary noise and for the conservation and protection of natural resources.

(b) Those in the Everglades Agricultural Area who cause water pollution within the Everglades Protection Area or the Everglades Agricultural Area shall be primarily responsible for paying the costs of the abatement of that pollution. For the purposes of this subsection, the terms "Everglades Protection

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378 Area" and "Everglades Agricultural Area" shall have the meanings
379 as defined in statutes in effect on January 1, 1996.

380 SECTION 8. Ethics in government.--A public office is a
381 public trust. The people shall have the right to secure and
382 sustain that trust against abuse. To assure this right:

383 (a) All elected constitutional officers and candidates for
384 such offices and, as may be determined by law, other public
385 officers, candidates, and employees shall file full and public
386 disclosure of their financial interests.

387 (b) All elected public officers and candidates for such
388 offices shall file full and public disclosure of their campaign
389 finances.

390 (c) Any public officer or employee who breaches the public
391 trust for private gain and any person or entity inducing such
392 breach shall be liable to the state for all financial benefits
393 obtained by such actions. The manner of recovery and additional
394 damages may be provided by law.

395 (d) Any public officer or employee who is convicted of a
396 felony involving a breach of public trust shall be subject to
397 forfeiture of rights and privileges under a public retirement
398 system or pension plan in such manner as may be provided by law.

399 (e) No member of the legislature or statewide elected
400 officer shall personally represent another person or entity for
401 compensation before the government body or agency of which the
402 individual was an officer or member for a period of two years
403 following vacation of office. No member of the legislature shall
404 personally represent another person or entity for compensation
405 during term of office before any state agency other than judicial
406 tribunals. Similar restrictions on other public officers and

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employees may be established by law.

(f) There shall be an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.

(g) A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

(h) This section shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests.

(i) Schedule--On the effective date of this amendment and until changed by law:

(1) Full and public disclosure of financial interests shall mean filing with the custodian of state records by July 1 of each year a sworn statement showing net worth and identifying each asset and liability in excess of \$1,000 and its value together with one of the following:

a. A copy of the person's most recent federal income tax return; or

b. A sworn statement which identifies each separate source and amount of income which exceeds \$1,000. The forms for such source disclosure and the rules under which they are to be filed shall be prescribed by the independent commission established in subsection (f), and such rules shall include disclosure of secondary sources of income.

(2) Persons holding statewide elective offices shall also

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file disclosure of their financial interests pursuant to
subsection (i)(1).

(3) The independent commission provided for in subsection
(f) shall mean the Florida Commission on Ethics.

SECTION 9. English is the official language of Florida.--

(a) English is the official language of the State of
Florida.

(b) The legislature shall have the power to enforce this
section by appropriate legislation.

ARTICLE III

LEGISLATURE

SECTION 1. Composition.--The legislative power of the state
shall be vested in a legislature of the State of Florida,
consisting of a senate composed of one senator elected from each
senatorial district and a house of representatives composed of
one member elected from each representative district.

SECTION 2. Members; officers.--Each house shall be the sole
judge of the qualifications, elections, and returns of its
members, and shall biennially choose its officers, including a
permanent presiding officer selected from its membership, who
shall be designated in the senate as President of the Senate, and
in the house as Speaker of the House of Representatives. The
senate shall designate a Secretary to serve at its pleasure, and
the house of representatives shall designate a Clerk to serve at
its pleasure. The legislature shall appoint an auditor to serve
at its pleasure who shall audit public records and perform
related duties as prescribed by law or concurrent resolution.

SECTION 3. Sessions of the legislature.--

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465 (a) ORGANIZATION SESSIONS. On the fourteenth day following
466 each general election the legislature shall convene for the
467 exclusive purpose of organization and selection of officers.

468 (b) REGULAR SESSIONS. A regular session of the legislature
469 shall convene on the first Tuesday after the first Monday in
470 March of each odd-numbered year, and on the first Tuesday after
471 the first Monday in March, or such other date as may be fixed by
472 law, of each even-numbered year.

473 (c) SPECIAL SESSIONS.

474 (1) The governor, by proclamation stating the purpose, may
475 convene the legislature in special session during which only such
476 legislative business may be transacted as is within the purview
477 of the proclamation, or of a communication from the governor, or
478 is introduced by consent of two-thirds of the membership of each
479 house.

480 (2) A special session of the legislature may be convened as
481 provided by law.

482 (d) LENGTH OF SESSIONS. A regular session of the
483 legislature shall not exceed sixty consecutive days, and a
484 special session shall not exceed twenty consecutive days, unless
485 extended beyond such limit by a three-fifths vote of each house.

486 During such an extension no new business may be taken up in
487 either house without the consent of two-thirds of its membership.

488 (e) ADJOURNMENT. Neither house shall adjourn for more than
489 seventy-two consecutive hours except pursuant to concurrent
490 resolution.

491 (f) ADJOURNMENT BY GOVERNOR. If, during any regular or
492 special session, the two houses cannot agree upon a time for
493 adjournment, the governor may adjourn the session sine die or to

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any date within the period authorized for such session; provided that, at least twenty-four hours before adjourning the session, and while neither house is in recess, each house shall be given formal written notice of the governor's intention to do so, and agreement reached within that period by both houses on a time for adjournment shall prevail.

SECTION 4. Quorum and procedure.--

(a) A majority of the membership of each house shall constitute a quorum, but a smaller number may adjourn from day to day and compel the presence of absent members in such manner and under such penalties as it may prescribe. Each house shall determine its rules of procedure.

(b) Sessions of each house shall be public; except sessions of the senate when considering appointment to or removal from public office may be closed.

(c) Each house shall keep and publish a journal of its proceedings; and upon the request of five members present, the vote of each member voting on any question shall be entered on the journal. In any legislative committee or subcommittee, the vote of each member voting on the final passage of any legislation pending before the committee, and upon the request of any two members of the committee or subcommittee, the vote of each member on any other question, shall be recorded.

(d) Each house may punish a member for contempt or disorderly conduct and, by a two-thirds vote of its membership, may expel a member.

(e) The rules of procedure of each house shall provide that all legislative committee and subcommittee meetings of each house, and joint conference committee meetings, shall be open and

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noticed to the public. The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public. All open meetings shall be subject to order and decorum. This section shall be implemented and defined by the rules of each house, and such rules shall control admission to the floor of each legislative chamber and may, where reasonably necessary for security purposes or to protect a witness appearing before a committee, provide for the closure of committee meetings. Each house shall be the sole judge for the interpretation, implementation, and enforcement of this section.

SECTION 5. Investigations; witnesses.--Each house, when in session, may compel attendance of witnesses and production of documents and other evidence upon any matter under investigation before it or any of its committees, and may punish by fine not exceeding one thousand dollars or imprisonment not exceeding ninety days, or both, any person not a member who has been guilty of disorderly or contemptuous conduct in its presence or has refused to obey its lawful summons or to answer lawful questions.

Such powers, except the power to punish, may be conferred by law upon committees when the legislature is not in session.

Punishment of contempt of an interim legislative committee shall be by judicial proceedings as prescribed by law.

SECTION 6. Laws.--Every law shall embrace but one subject

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and matter properly connected therewith, and the subject shall be briefly expressed in the title. No law shall be revised or amended by reference to its title only. Laws to revise or amend shall set out in full the revised or amended act, section, subsection, or paragraph of a subsection. The enacting clause of every law shall read: "Be It Enacted by the Legislature of the State of Florida: ."~~+~~

SECTION 7. Passage of bills.--Any bill may originate in either house and after passage in one may be amended in the other. It shall be read in each house on three separate days, unless this rule is waived by two-thirds vote; provided the publication of its title in the journal of a house shall satisfy the requirement for the first reading in that house. On each reading, it shall be read by title only, unless one-third of the members present desire it read in full. On final passage, the vote of each member voting shall be entered on the journal. Passage of a bill shall require a majority vote in each house. Each bill and joint resolution passed in both houses shall be signed by the presiding officers of the respective houses and by the secretary of the senate and the clerk of the house of representatives during the session or as soon as practicable after its adjournment sine die.

SECTION 8. Executive approval and veto.--

(a) Every bill passed by the legislature shall be presented to the governor for approval and shall become a law if the governor approves and signs it, or fails to veto it within seven consecutive days after presentation. If during that period or on the seventh day the legislature adjourns sine die or takes a recess of more than thirty days, the governor shall have fifteen

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consecutive days from the date of presentation to act on the bill. In all cases except general appropriation bills, the veto shall extend to the entire bill. The governor may veto any specific appropriation in a general appropriation bill, but may not veto any qualification or restriction without also vetoing the appropriation to which it relates.

(b) When a bill or any specific appropriation of a general appropriation bill has been vetoed, the governor shall transmit signed objections thereto to the house in which the bill originated if in session. If that house is not in session, the governor shall file them with the custodian of state records, who shall lay them before that house at its next regular or special session, whichever occurs first, and they shall be entered on its journal. If the originating house votes to re-enact a vetoed measure, whether in a regular or special session, and the other house does not consider or fails to re-enact the vetoed measure, no further consideration by either house at any subsequent session may be taken. If a vetoed measure is presented at a special session and the originating house does not consider it, the measure will be available for consideration at any intervening special session and until the end of the next regular session.

(c) If each house shall, by a two-thirds vote, re-enact the bill or reinstate the vetoed specific appropriation of a general appropriation bill, the vote of each member voting shall be entered on the respective journals, and the bill shall become law or the specific appropriation reinstated, the veto notwithstanding.

SECTION 9. Effective date of laws.--Each law shall take

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effect on the sixtieth day after adjournment sine die of the session of the legislature in which enacted or as otherwise provided therein. If the law is passed over the veto of the governor, it shall take effect on the sixtieth day after adjournment sine die of the session in which the veto is overridden, on a later date fixed in the law, or on a date fixed by resolution passed by both houses of the legislature.

SECTION 10. Special laws.--No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected.

SECTION 11. Prohibited special laws.--

(a) There shall be no special law or general law of local application pertaining to:

(1) Election, jurisdiction, or duties of officers, except officers of municipalities, chartered counties, special districts, or local governmental agencies;

(2) Assessment or collection of taxes for state or county purposes, including extension of time therefor, relief of tax officers from due performance of their duties, and relief of their sureties from liability;

(3) Rules of evidence in any court;

(4) Punishment for crime;

(5) Petit juries, including compensation of jurors, except establishment of jury commissions;

(6) Change of civil or criminal venue;

(7) Conditions precedent to bringing any civil or criminal

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639 | proceedings, or limitations of time therefor;
640 | (8) Refund of money legally paid or remission of fines,
641 | penalties, or forfeitures;
642 | (9) Creation, enforcement, extension, or impairment of
643 | liens based on private contracts, or fixing of interest rates on
644 | private contracts;
645 | (10) Disposal of public property, including any interest
646 | therein, for private purposes;
647 | (11) Vacation of roads;
648 | (12) Private incorporation or grant of privilege to a
649 | private corporation;
650 | (13) Effectuation of invalid deeds, wills, or other
651 | instruments, or change in the law of descent;
652 | (14) Change of name of any person;
653 | (15) Divorce;
654 | (16) Legitimation or adoption of persons;
655 | (17) Relief of minors from legal disabilities;
656 | (18) Transfer of any property interest of persons under
657 | legal disabilities or of estates of decedents;
658 | (19) Hunting or freshwater ~~fresh-water~~ fishing;
659 | (20) Regulation of occupations which are regulated by a
660 | state agency; or
661 | (21) Any subject when prohibited by general law passed by a
662 | three-fifths vote of the membership of each house. Such law may
663 | be amended or repealed by like vote.
664 | (b) In the enactment of general laws on other subjects,
665 | political subdivisions or other governmental entities may be
666 | classified only on a basis reasonably related to the subject of
667 | the law.

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SECTION 12. Appropriation bills.--Laws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject.

SECTION 13. Term of office.--No office shall be created the term of which shall exceed four years except as provided herein.

SECTION 14. Civil service system.--By law there shall be created a civil service system for state employees, except those expressly exempted, and there may be created civil service systems and boards for county, district, or municipal employees and for such offices thereof as are not elected or appointed by the governor, and there may be authorized such boards as are necessary to prescribe the qualifications, method of selection, and tenure of such employees and officers.

SECTION 15. Terms and qualifications of legislators.--

(a) SENATORS. Senators shall be elected for terms of four years, those from odd-numbered districts in the years the numbers of which are multiples of four and those from even-numbered districts in even-numbered years the numbers of which are not multiples of four; except, at the election next following a reapportionment, some senators shall be elected for terms of two years when necessary to maintain staggered terms.

(b) REPRESENTATIVES. Members of the house of representatives shall be elected for terms of two years in each even-numbered year.

(c) QUALIFICATIONS. Each legislator shall be at least twenty-one years of age, an elector and resident of the district from which elected and shall have resided in the state for a period of two years prior to election.

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697 (d) ASSUMING OFFICE; VACANCIES. Members of the legislature
698 shall take office upon election. Vacancies in a legislative
699 office shall be filled only by election as provided by law.

700 SECTION 16. Legislative apportionment.--

701 (a) SENATORIAL AND REPRESENTATIVE DISTRICTS. The
702 legislature at its regular session in the second year following
703 each decennial census, by joint resolution, shall apportion the
704 state in accordance with the constitution of the state and of the
705 United States into not less than thirty nor more than forty
706 consecutively numbered senatorial districts of either contiguous,
707 overlapping, or identical territory, and into not less than
708 eighty nor more than one hundred twenty consecutively numbered
709 representative districts of either contiguous, overlapping, or
710 identical territory. Should that session adjourn without
711 adopting such joint resolution, the governor by proclamation
712 shall reconvene the legislature within thirty days in special
713 apportionment session which shall not exceed thirty consecutive
714 days, during which no other business shall be transacted, and it
715 shall be the mandatory duty of the legislature to adopt a joint
716 resolution of apportionment.

717 (b) FAILURE OF LEGISLATURE TO APPORTION; JUDICIAL
718 REAPPORTIONMENT. In the event a special apportionment session of
719 the legislature finally adjourns without adopting a joint
720 resolution of apportionment, the attorney general shall, within
721 five days, petition the supreme court of the state to make such
722 apportionment. No later than the sixtieth day after the filing
723 of such petition, the supreme court shall file with the custodian
724 of state records an order making such apportionment.

725 (c) JUDICIAL REVIEW OF APPORTIONMENT. Within fifteen days

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after the passage of the joint resolution of apportionment, the attorney general shall petition the supreme court of the state for a declaratory judgment determining the validity of the apportionment. The supreme court, in accordance with its rules, shall permit adversary interests to present their views and, within thirty days from the filing of the petition, shall enter its judgment.

(d) EFFECT OF JUDGMENT IN APPORTIONMENT; EXTRAORDINARY APPORTIONMENT SESSION. A judgment of the supreme court of the state determining the apportionment to be valid shall be binding upon all the citizens of the state. Should the supreme court determine that the apportionment made by the legislature is invalid, the governor by proclamation shall reconvene the legislature within five days thereafter in an extraordinary apportionment session which shall not exceed fifteen days, during which the legislature shall adopt a joint resolution of apportionment conforming to the judgment of the supreme court.

(e) EXTRAORDINARY APPORTIONMENT SESSION; REVIEW OF APPORTIONMENT. Within fifteen days after the adjournment of an extraordinary apportionment session, the attorney general shall file a petition in the supreme court of the state setting forth the apportionment resolution adopted by the legislature, or if none has been adopted reporting that fact to the court. Consideration of the validity of a joint resolution of apportionment shall be had as provided for in cases of such joint resolution adopted at a regular or special apportionment session.

(f) JUDICIAL REAPPORTIONMENT. Should an extraordinary apportionment session fail to adopt a resolution of apportionment or should the supreme court determine that the apportionment made

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is invalid, the court shall, not later than sixty days after receiving the petition of the attorney general, file with the custodian of state records an order making such apportionment.

SECTION 17. Impeachment.--

(a) The governor, lieutenant governor, members of the cabinet, justices of the supreme court, judges of district courts of appeal, judges of circuit courts, and judges of county courts shall be liable to impeachment for misdemeanor in office. The house of representatives by two-thirds vote shall have the power to impeach an officer. The speaker of the house of representatives shall have power at any time to appoint a committee to investigate charges against any officer subject to impeachment.

(b) An officer impeached by the house of representatives shall be disqualified from performing any official duties until acquitted by the senate, and, unless impeached, the governor may by appointment fill the office until completion of the trial.

(c) All impeachments by the house of representatives shall be tried by the senate. The chief justice of the supreme court, or another justice designated by the chief justice, shall preside at the trial, except in a trial of the chief justice, in which case the governor shall preside. The senate shall determine the time for the trial of any impeachment and may sit for the trial whether the house of representatives be in session or not. The time fixed for trial shall not be more than six months after the impeachment. During an impeachment trial senators shall be upon their oath or affirmation. No officer shall be convicted without the concurrence of two-thirds of the members of the senate present. Judgment of conviction in cases of impeachment shall

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remove the offender from office and, in the discretion of the senate, may include disqualification to hold any office of honor, trust, or profit. Conviction or acquittal shall not affect the civil or criminal responsibility of the officer.

SECTION 18. Conflict of Interest.--A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

SECTION 19. State Budgeting, Planning and Appropriations Processes.--

(a) ANNUAL BUDGETING. ~~Effective July 1, 1994,~~ General law shall prescribe the adoption of annual state budgetary and planning processes and require that detail reflecting the annualized costs of the state budget and reflecting the nonrecurring costs of the budget requests shall accompany state department and agency legislative budget requests, the governor's recommended budget, and appropriation bills. For purposes of this subsection, the terms "department" and "agency" shall include the judicial branch.

(b) APPROPRIATION BILLS FORMAT. Separate sections within the general appropriation bill shall be used for each major program area of the state budget; major program areas shall include: education enhancement "lottery" trust fund items; education (all other funds); human services; criminal justice and corrections; natural resources, environment, growth management, and transportation; general government; and judicial branch. Each major program area shall include an itemization of expenditures for: state operations; state capital outlay; aid to local governments and nonprofit organizations operations; aid to

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813 local governments and nonprofit organizations capital outlay;
814 federal funds and the associated state matching funds; spending
815 authorizations for operations; and spending authorizations for
816 capital outlay. Additionally, appropriation bills passed by the
817 legislature shall include an itemization of specific
818 appropriations that exceed one million dollars (\$1,000,000.00) in
819 1992 dollars. For purposes of this subsection, "specific
820 appropriation," "itemization," and "major program area" shall be
821 defined by law. This itemization threshold shall be adjusted by
822 general law every four years to reflect the rate of inflation or
823 deflation as indicated in the Consumer Price Index for All Urban
824 Consumers, U.S. City Average, All Items, or successor reports as
825 reported by the United States Department of Labor, Bureau of
826 Labor Statistics or its successor. Substantive bills containing
827 appropriations shall also be subject to the itemization
828 requirement mandated under this provision and shall be subject to
829 the governor's specific appropriation veto power described in
830 Article III, Section 8. ~~This subsection shall be effective July~~
831 ~~1, 1994.~~

832 (c) APPROPRIATIONS REVIEW PROCESS. ~~Effective July 1, 1993,~~
833 General law shall prescribe requirements for each department and
834 agency of state government to submit a planning document and
835 supporting budget request for review by the appropriations
836 committees of both houses of the legislature. The review shall
837 include a comparison of the major issues in the planning document
838 and budget requests to those major issues included in the
839 governor's recommended budget. For purposes of this subsection,
840 the terms department and agency shall include the judicial
841 branch.

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(d) SEVENTY-TWO HOUR PUBLIC REVIEW PERIOD. All general appropriation bills shall be furnished to each member of the legislature, each member of the cabinet, the governor, and the chief justice of the supreme court at least seventy-two hours before final passage by either house of the legislature of the bill in the form that will be presented to the governor.

(e) FINAL BUDGET REPORT. ~~Effective November 4, 1992,~~ A final budget report shall be prepared as prescribed by general law. The final budget report shall be produced no later than the 90th day after the beginning of the fiscal year, and copies of the report shall be furnished to each member of the legislature, the head of each department and agency of the state, the auditor general, and the chief justice of the supreme court.

(f) TRUST FUNDS.

(1) No trust fund of the State of Florida or other public body may be created by law without a three-fifths(3/5) vote of the membership of each house of the legislature in a separate bill for that purpose only.

(2) State trust funds in existence before the effective date of this subsection shall terminate not more than four years after the effective date of this subsection. State trust funds created after the effective date of this subsection shall terminate not more than four years after the effective date of the act authorizing the creation of the trust fund. By law the legislature may set a shorter time period for which any trust fund is authorized.

(3) Trust funds required by federal programs or mandates; trust funds established for bond covenants, indentures, or resolutions, whose revenues are legally pledged by the state or

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871 public body to meet debt service or other financial requirements
872 of any debt obligations of the state or any public body; the
873 state transportation trust fund; the trust fund containing the
874 net annual proceeds from the Florida Education Lotteries; the
875 Florida retirement trust fund; trust funds for institutions under
876 the management of the Board of Regents, where such trust funds
877 are for auxiliary enterprises and contracts, grants, and
878 donations, as those terms are defined by general law; trust funds
879 that serve as clearing funds or accounts for the chief financial
880 officer or state agencies; trust funds that account for assets
881 held by the state in a trustee capacity as an agent or fiduciary
882 for individuals, private organizations, or other governmental
883 units; and other trust funds authorized by this Constitution, are
884 not subject to the requirements set forth in paragraph (2) of
885 this subsection.

886 (4) All cash balances and income of any trust funds
887 abolished under this subsection shall be deposited into the
888 general revenue fund.

889 ~~(5) The provisions of this subsection shall be effective~~
890 ~~November 4, 1992.~~

891 (g) BUDGET STABILIZATION FUND. ~~Beginning with the 1994-~~
892 ~~1995 fiscal year, at least 1% of an amount equal to the last~~
893 ~~completed fiscal year's net revenue collections for the general~~
894 ~~revenue fund shall be retained in a budget stabilization fund.~~
895 ~~The budget stabilization fund shall be increased to at least 2%~~
896 ~~of said amount for the 1995-1996 fiscal year, at least 3% of said~~
897 ~~amount for the 1996-1997 fiscal year, at least 4% of said amount~~
898 ~~for the 1997-1998 fiscal year, and at least 5% of said amount for~~
899 ~~the 1998-1999 fiscal year. Subject to the provisions of this~~

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subsection, the budget stabilization fund shall be maintained at an amount equal to at least five percent 5% of the last completed fiscal year's net revenue collections for the general revenue fund. The budget stabilization fund's principal balance shall not exceed an amount equal to ten percent 10% of the last completed fiscal year's net revenue collections for the general revenue fund. The legislature shall provide criteria for withdrawing funds from the budget stabilization fund in a separate bill for that purpose only and only for the purpose of covering revenue shortfalls of the general revenue fund or for the purpose of providing funding for an emergency, as defined by general law. General law shall provide for the restoration of this fund. The budget stabilization fund shall be comprised of funds not otherwise obligated or committed for any purpose.

(h) STATE PLANNING DOCUMENT AND DEPARTMENT AND AGENCY PLANNING DOCUMENT PROCESSES. The governor shall recommend to the legislature biennially any revisions to the state planning document, as defined by law. General law shall require a biennial review and revision of the state planning document, shall require the governor to report to the legislature on the progress in achieving the state planning document's goals, and shall require all departments and agencies of state government to develop planning documents consistent with the state planning document. The state planning document and department and agency planning documents shall remain subject to review and revision by the legislature. The department and agency planning documents shall include a prioritized listing of planned expenditures for review and possible reduction in the event of revenue shortfalls, as defined by general law. To ensure productivity and efficiency in

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the executive, legislative, and judicial branches, a quality management and accountability program shall be implemented by general law. For the purposes of this subsection, the terms "department" and "agency" shall include the judicial branch. ~~This subsection shall be effective July 1, 1993.~~

ARTICLE IV

EXECUTIVE

SECTION 1. Governor.--

(a) The supreme executive power shall be vested in a governor, who shall be commander-in-chief of all military forces of the state not in active service of the United States. The governor shall take care that the laws be faithfully executed, commission all officers of the state and counties, and transact all necessary business with the officers of government. The governor may require information in writing from all executive or administrative state, county, or municipal officers upon any subject relating to the duties of their respective offices. The governor shall be the chief administrative officer of the state responsible for the planning and budgeting for the state.

(b) The governor may initiate judicial proceedings in the name of the state against any executive or administrative state, county, or municipal officer to enforce compliance with any duty or restrain any unauthorized act.

(c) The governor may request in writing the opinion of the justices of the supreme court as to the interpretation of any portion of this constitution upon any question affecting the governor's executive powers and duties. The justices shall, subject to their rules of procedure, permit interested persons to

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be heard on the questions presented and shall render their written opinion not earlier than ten days from the filing and docketing of the request, unless in their judgment the delay would cause public injury.

(d) The governor shall have power to call out the militia to preserve the public peace, execute the laws of the state, suppress insurrection, or repel invasion.

(e) The governor shall by message at least once in each regular session inform the legislature concerning the condition of the state, propose such reorganization of the executive department as will promote efficiency and economy, and recommend measures in the public interest.

(f) When not otherwise provided for in this constitution, the governor shall fill by appointment any vacancy in a state or county office for the remainder of the term of an appointive office, and for the remainder of the term of an elective office if less than twenty-eight months, otherwise until the first Tuesday after the first Monday following the next general election.

SECTION 2. Lieutenant governor.--There shall be a lieutenant governor, who shall perform such duties pertaining to the office of governor as shall be assigned by the governor, except when otherwise provided by law, and such other duties as may be prescribed by law.

SECTION 3. Succession to office of governor; acting governor.--

(a) Upon vacancy in the office of governor, the lieutenant governor shall become governor. Further succession to the office of governor shall be prescribed by law. A successor shall serve

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for the remainder of the term.

(b) Upon impeachment of the governor and until completion of trial thereof, or during the governor's physical or mental incapacity, the lieutenant governor shall act as governor. Further succession as acting governor shall be prescribed by law. Incapacity to serve as governor may be determined by the supreme court upon due notice after docketing of a written suggestion thereof by three cabinet members, and in such case restoration of capacity shall be similarly determined after docketing of written suggestion thereof by the governor, the legislature, or three cabinet members. Incapacity to serve as governor may also be established by certificate filed with the custodian of state records by the governor declaring incapacity for physical reasons to serve as governor, and in such case restoration of capacity shall be similarly established.

SECTION 4. Cabinet.--

(a) There shall be a cabinet composed of an attorney general, a chief financial officer, and a commissioner of agriculture. In addition to the powers and duties specified herein, they shall exercise such powers and perform such duties as may be prescribed by law. In the event of a tie vote of the governor and cabinet, the side on which the governor voted shall be deemed to prevail.

(b) The attorney general shall be the chief state legal officer. There is created in the office of the attorney general the position of statewide prosecutor. The statewide prosecutor shall have concurrent jurisdiction with the state attorneys to prosecute violations of criminal laws occurring or having occurred, in two or more judicial circuits as part of a related

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transaction, or when any such offense is affecting or has affected two or more judicial circuits as provided by general law. The statewide prosecutor shall be appointed by the attorney general from not less than three persons nominated by the judicial nominating commission for the supreme court, or as otherwise provided by general law.

(c) The chief financial officer shall serve as the chief fiscal officer of the state, and shall settle and approve accounts against the state, and shall keep all state funds and securities.

(d) The commissioner of agriculture shall have supervision of matters pertaining to agriculture except as otherwise provided by law.

(e) The governor as chair, the chief financial officer, and the attorney general shall constitute the state board of administration, which shall succeed to all the power, control, and authority of the state board of administration established pursuant to Article IX, Section 16 of the Constitution of 1885, and which shall continue as a body at least for the life of Article XII, Section 9(c).

(f) The governor as chair, the chief financial officer, the attorney general, and the commissioner of agriculture shall constitute the trustees of the internal improvement trust fund and the land acquisition trust fund as provided by law.

(g) The governor as chair, the chief financial officer, the attorney general, and the commissioner of agriculture shall constitute the agency head of the Department of Law Enforcement.

SECTION 5. Election of governor, lieutenant governor, and cabinet members; qualifications; terms.--

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(a) At a state-wide general election in each calendar year the number of which is even but not a multiple of four, the electors shall choose a governor and a lieutenant governor and members of the cabinet each for a term of four years beginning on the first Tuesday after the first Monday in January of the succeeding year. In primary elections, candidates for the office of governor may choose to run without a lieutenant governor candidate. In the general election, all candidates for the offices of governor and lieutenant governor shall form joint candidacies in a manner prescribed by law so that each voter shall cast a single vote for a candidate for governor and a candidate for lieutenant governor running together.

(b) When elected, the governor, lieutenant governor, and each cabinet member must be an elector not less than thirty years of age who has resided in the state for the preceding seven years. The attorney general must have been a member of the bar of Florida for the preceding five years. No person who has, or but for resignation would have, served as governor or acting governor for more than six years in two consecutive terms shall be elected governor for the succeeding term.

SECTION 6. Executive departments.--All functions of the executive branch of state government shall be allotted among not more than twenty-five departments, exclusive of those specifically provided for or authorized in this constitution. The administration of each department, unless otherwise provided in this constitution, shall be placed by law under the direct supervision of the governor, the lieutenant governor, the governor and cabinet, a cabinet member, or an officer or board appointed by and serving at the pleasure of the governor, except:

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1074 (a) When provided by law, confirmation by the senate or the
1075 approval of three members of the cabinet shall be required for
1076 appointment to or removal from any designated statutory office.

1077 (b) Boards authorized to grant and revoke licenses to
1078 engage in regulated occupations shall be assigned to appropriate
1079 departments and their members appointed for fixed terms, subject
1080 to removal only for cause.

1081 SECTION 7. Suspensions; filling office during suspensions.--
1082 -

1083 (a) By executive order stating the grounds and filed with
1084 the custodian of state records, the governor may suspend from
1085 office any state officer not subject to impeachment, any officer
1086 of the militia not in the active service of the United States, or
1087 any county officer, for malfeasance, misfeasance, neglect of
1088 duty, drunkenness, incompetence, permanent inability to perform
1089 official duties, or commission of a felony, and may fill the
1090 office by appointment for the period of suspension. The
1091 suspended officer may at any time before removal be reinstated by
1092 the governor.

1093 (b) The senate may, in proceedings prescribed by law,
1094 remove from office or reinstate the suspended official and for
1095 such purpose the senate may be convened in special session by its
1096 president or by a majority of its membership.

1097 (c) By order of the governor, any elected municipal officer
1098 indicted for a crime may be suspended from office until acquitted
1099 and the office filled by appointment for the period of
1100 suspension, not to extend beyond the term, unless these powers
1101 are vested elsewhere by law or the municipal charter.

1102 SECTION 8. Clemency.--

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1103 (a) Except in cases of treason and in cases where
1104 impeachment results in conviction, the governor may, by executive
1105 order filed with the custodian of state records, suspend
1106 collection of fines and forfeitures, grant reprieves not
1107 exceeding sixty days and, with the approval of two members of the
1108 cabinet, grant full or conditional pardons, restore civil rights,
1109 commute punishment, and remit fines and forfeitures for offenses.

1110 (b) In cases of treason, the governor may grant reprieves
1111 until adjournment of the regular session of the legislature
1112 convening next after the conviction, at which session the
1113 legislature may grant a pardon or further reprieve; otherwise the
1114 sentence shall be executed.

1115 (c) There may be created by law a parole and probation
1116 commission with power to supervise persons on probation and to
1117 grant paroles or conditional releases to persons under sentences
1118 for crime. The qualifications, method of selection and terms,
1119 not to exceed six years, of members of the commission shall be
1120 prescribed by law.

1121 SECTION 9. Fish and wildlife conservation commission.--
1122 There shall be a fish and wildlife conservation commission,
1123 composed of seven members appointed by the governor, subject to
1124 confirmation by the senate for staggered terms of five years. The
1125 commission shall exercise the regulatory and executive powers of
1126 the state with respect to wild animal life and freshwater ~~fresh~~
1127 ~~water~~ aquatic life, and shall also exercise regulatory and
1128 executive powers of the state with respect to marine life, except
1129 that all license fees for taking wild animal life, freshwater
1130 ~~fresh water~~ aquatic life, and marine life and penalties for
1131 violating regulations of the commission shall be prescribed by

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1132 general law. The commission shall establish procedures to ensure
 1133 adequate due process in the exercise of its regulatory and
 1134 executive functions. The legislature may enact laws in aid of the
 1135 commission, not inconsistent with this section, except that there
 1136 shall be no special law or general law of local application
 1137 pertaining to hunting or fishing. The commission's exercise of
 1138 executive powers in the area of planning, budgeting, personnel
 1139 management, and purchasing shall be as provided by law. Revenue
 1140 derived from license fees for the taking of wild animal life and
 1141 freshwater ~~fresh-water~~ aquatic life shall be appropriated to the
 1142 commission by the legislature for the purposes of management,
 1143 protection, and conservation of wild animal life and freshwater
 1144 ~~fresh-water~~ aquatic life. Revenue derived from license fees
 1145 relating to marine life shall be appropriated by the legislature
 1146 for the purposes of management, protection, and conservation of
 1147 marine life as provided by law. The commission shall not be a
 1148 unit of any other state agency and shall have its own staff,
 1149 which includes management, research, and enforcement. Unless
 1150 provided by general law, the commission shall have no authority
 1151 to regulate matters relating to air and water pollution.

1152 SECTION 10. Attorney General.--The attorney general shall,
 1153 as directed by general law, request the opinion of the justices
 1154 of the supreme court as to the validity of any initiative
 1155 petition circulated pursuant to Section 3 of Article XI. The
 1156 justices shall, subject to their rules of procedure, permit
 1157 interested persons to be heard on the questions presented and
 1158 shall render their written opinion no later than April 1 of the
 1159 year in which the initiative is to be submitted to the voters
 1160 pursuant to Section 5 of Article XI.

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1161 SECTION 11. Department of Veterans Affairs.--The
1162 legislature, by general law, may provide for the establishment of
1163 the Department of Veterans Affairs.

1164 SECTION 12. Department of Elderly Affairs.--The legislature
1165 may create a Department of Elderly Affairs and prescribe its
1166 duties. The provisions governing the administration of the
1167 department must comply with Section 6 of Article IV of the State
1168 Constitution.

1169 SECTION 13. Revenue Shortfalls.--In the event of revenue
1170 shortfalls, as defined by general law, the governor and cabinet
1171 may establish all necessary reductions in the state budget in
1172 order to comply with the provisions of Article VII, Section 1(d).

1173 The governor and cabinet shall implement all necessary
1174 reductions for the executive budget, the chief justice of the
1175 supreme court shall implement all necessary reductions for the
1176 judicial budget, and the speaker of the house of representatives
1177 and the president of the senate shall implement all necessary
1178 reductions for the legislative budget. Budget reductions pursuant
1179 to this section shall be consistent with the provisions of
1180 Article III, Section 19(h).

1181 ARTICLE V

1182 JUDICIARY

1183
1184 SECTION 1. Courts.--The judicial power shall be vested in a
1185 supreme court, district courts of appeal, circuit courts, and
1186 county courts. No other courts may be established by the state,
1187 any political subdivision, or any municipality. The legislature
1188 shall, by general law, divide the state into appellate court
1189 districts and judicial circuits following county lines.

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Commissions established by law, or administrative officers or bodies, may be granted quasi-judicial power in matters connected with the functions of their offices. The legislature may establish, by general law, a civil traffic hearing officer system for the purpose of hearing civil traffic infractions. The legislature may, by general law, authorize a military court-martial to be conducted by military judges of the Florida National Guard, with direct appeal of a decision to the District Court of Appeal, First District.

SECTION 2. Administration; practice and procedure.--

(a) The supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review, the administrative supervision of all courts, the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked, and a requirement that no cause shall be dismissed because an improper remedy has been sought. The supreme court shall adopt rules to allow the court and the district courts of appeal to submit questions relating to military law to the federal Court of Appeals for the Armed Forces for an advisory opinion. Rules of court may be repealed by general law enacted by two-thirds vote of the membership of each house of the legislature.

(b) The chief justice of the supreme court shall be chosen by a majority of the members of the court; shall be the chief administrative officer of the judicial system; and shall have the power to assign justices or judges, including consenting retired justices or judges, to temporary duty in any court for which the judge is qualified and to delegate to a chief judge of a judicial

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circuit the power to assign judges for duty in that circuit.

(c) A chief judge for each district court of appeal shall be chosen by a majority of the judges thereof or, if there is no majority, by the chief justice. The chief judge shall be responsible for the administrative supervision of the court.

(d) A chief judge in each circuit shall be chosen from among the circuit judges as provided by supreme court rule. The chief judge shall be responsible for the administrative supervision of the circuit courts and county courts in his or her circuit.

SECTION 3. Supreme court.--

(a) ORGANIZATION.--The supreme court shall consist of seven justices. Of the seven justices, each appellate district shall have at least one justice elected or appointed from the district to the supreme court who is a resident of the district at the time of the original appointment or election. Five justices shall constitute a quorum. The concurrence of four justices shall be necessary to a decision. When recusals for cause would prohibit the court from convening because of the requirements of this section, judges assigned to temporary duty may be substituted for justices.

(b) JURISDICTION.--The supreme court:

(1) Shall hear appeals from final judgments of trial courts imposing the death penalty and from decisions of district courts of appeal declaring invalid a state statute or a provision of the state constitution.

(2) When provided by general law, shall hear appeals from final judgments entered in proceedings for the validation of bonds or certificates of indebtedness and shall review action of

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statewide agencies relating to rates or service of utilities providing electric, gas, or telephone service.

(3) May review any decision of a district court of appeal that expressly declares valid a state statute, or that expressly construes a provision of the state or federal constitution, or that expressly affects a class of constitutional or state officers, or that expressly and directly conflicts with a decision of another district court of appeal or of the supreme court on the same question of law.

(4) May review any decision of a district court of appeal that passes upon a question certified by it to be of great public importance, or that is certified by it to be in direct conflict with a decision of another district court of appeal.

(5) May review any order or judgment of a trial court certified by the district court of appeal, in which an appeal is pending, to be of great public importance, or to have a great effect on the proper administration of justice throughout the state, and certified to require immediate resolution by the supreme court.

(6) May review a question of law certified by the Supreme Court of the United States or a United States Court of Appeals which is determinative of the cause and for which there is no controlling precedent of the supreme court of Florida.

(7) May issue writs of prohibition to courts and all writs necessary to the complete exercise of its jurisdiction.

(8) May issue writs of mandamus and quo warranto to state officers and state agencies.

(9) May, or any justice may, issue writs of habeas corpus returnable before the supreme court or any justice, a district

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court of appeal or any judge thereof, or any circuit judge.

(10) Shall, when requested by the attorney general pursuant to the provisions of Section 10 of Article IV, render an advisory opinion of the justices, addressing issues as provided by general law.

(c) CLERK AND MARSHAL.--The supreme court shall appoint a clerk and a marshal who shall hold office at ~~during~~ the pleasure of the court and perform such duties as the court directs. Their compensation shall be fixed by general law. The marshal shall have the power to execute the process of the court throughout the state, and in any county may deputize the sheriff or a deputy sheriff for such purpose.

SECTION 4. District courts of appeal.--

(a) ORGANIZATION.--There shall be a district court of appeal serving each appellate district. Each district court of appeal shall consist of at least three judges. Three judges shall consider each case and the concurrence of two shall be necessary to a decision.

(b) JURISDICTION.--

(1) District courts of appeal shall have jurisdiction to hear appeals, that may be taken as a matter of right, from final judgments or orders of trial courts, including those entered on review of administrative action, not directly appealable to the supreme court or a circuit court. They may review interlocutory orders in such cases to the extent provided by rules adopted by the supreme court.

(2) District courts of appeal shall have the power of direct review of administrative action, as prescribed by general law.

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(3) A district court of appeal or any judge thereof may issue writs of habeas corpus returnable before the court or any judge thereof or before any circuit judge within the territorial jurisdiction of the court. A district court of appeal may issue writs of mandamus, certiorari, prohibition, quo warranto, and other writs necessary to the complete exercise of its jurisdiction. To the extent necessary to dispose of all issues in a cause properly before it, a district court of appeal may exercise any of the appellate jurisdiction of the circuit courts.

(c) CLERKS AND MARSHALS.--Each district court of appeal shall appoint a clerk and a marshal who shall hold office during the pleasure of the court and perform such duties as the court directs. Their compensation shall be fixed by general law. The marshal shall have the power to execute the process of the court throughout the territorial jurisdiction of the court, and in any county may deputize the sheriff or a deputy sheriff for such purpose.

SECTION 5. Circuit courts.--

(a) ORGANIZATION.--There shall be a circuit court serving each judicial circuit.

(b) JURISDICTION.--The circuit courts shall have original jurisdiction not vested in the county courts, and jurisdiction of appeals when provided by general law. They shall have the power to issue writs of mandamus, quo warranto, certiorari, prohibition, and habeas corpus, and all writs necessary or proper to the complete exercise of their jurisdiction. Jurisdiction of the circuit court shall be uniform throughout the state. They shall have the power of direct review of administrative action prescribed by general law.

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SECTION 6. County courts.--

(a) ORGANIZATION.--There shall be a county court in each county. There shall be one or more judges for each county court as prescribed by general law.

(b) JURISDICTION.--The county courts shall exercise the jurisdiction prescribed by general law. Such jurisdiction shall be uniform throughout the state.

SECTION 7. Specialized divisions.--All courts except the supreme court may sit in divisions as may be established by general law. A circuit or county court may hold civil and criminal trials and hearings in any place within the territorial jurisdiction of the court as designated by the chief judge of the circuit.

SECTION 8. Eligibility.--No person shall be eligible for office of justice or judge of any court unless the person is an elector of the state and resides in the territorial jurisdiction of the court. No justice or judge shall serve after attaining the age of seventy years except upon temporary assignment or to complete a term, one-half of which has been served. No person is eligible for the office of justice of the supreme court or judge of a district court of appeal unless the person is, and has been for the preceding ten years, a member of the bar of Florida. No person is eligible for the office of circuit judge unless the person is, and has been for the preceding five years, a member of the bar of Florida. Unless otherwise provided by general law, no person is eligible for the office of county court judge unless the person is, and has been for the preceding five years, a member of the bar of Florida. Unless otherwise provided by general law, a person shall be eligible for election or

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appointment to the office of county court judge in a county having a population of 40,000 or less if the person is a member in good standing of the bar of Florida.

SECTION 9. Determination of number of judges.--The supreme court shall establish by rule uniform criteria for the determination of the need for additional judges except supreme court justices, the necessity for decreasing the number of judges and for increasing, decreasing, or redefining appellate districts and judicial circuits. If the supreme court finds that a need exists for increasing or decreasing the number of judges or increasing, decreasing, or redefining appellate districts and judicial circuits, it shall, prior to the next regular session of the legislature, certify to the legislature its findings and recommendations concerning such need. Upon receipt of such certificate, the legislature, at the next regular session, shall consider the findings and recommendations and may reject the recommendations or by law implement the recommendations in whole or in part; provided the legislature may create more judicial offices than are recommended by the supreme court or may decrease the number of judicial offices by a greater number than recommended by the court only upon a finding of two-thirds of the membership of both houses of the legislature, that such a need exists. A decrease in the number of judges shall be effective only after the expiration of a term. If the supreme court fails to make findings as provided above when need exists, the legislature may by concurrent resolution request the court to certify its findings and recommendations and upon the failure of the court to certify its findings for nine consecutive months, the legislature may, upon a finding of two-thirds of the

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membership of both houses of the legislature that a need exists, increase or decrease the number of judges or increase, decrease, or redefine appellate districts and judicial circuits.

SECTION 10. Retention; election and terms.--

(a) Any justice or judge may qualify for retention by a vote of the electors in the general election next preceding the expiration of the justice's or judge's term in the manner prescribed by law. If a justice or judge is ineligible or fails to qualify for retention, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge. When a justice or judge so qualifies, the ballot shall read substantially as follows: "Shall Justice (or Judge) (name of justice or judge) of the (name of the court) be retained in office?" If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to retain, the justice or judge shall be retained for a term of six years. The term of the justice or judge retained shall commence on the first Tuesday after the first Monday in January following the general election. If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to not retain, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge.

(b)(1) The election of circuit judges shall be preserved notwithstanding the provisions of subsection (a) unless a majority of those voting in the jurisdiction of that circuit approves a local option to select circuit judges by merit selection and retention rather than by election. The election of circuit judges shall be by a vote of the qualified electors within the territorial jurisdiction of the court.

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(2) The election of county court judges shall be preserved notwithstanding the provisions of subsection (a) unless a majority of those voting in the jurisdiction of that county approves a local option to select county judges by merit selection and retention rather than by election. The election of county court judges shall be by a vote of the qualified electors within the territorial jurisdiction of the court.

(3)a. A vote to exercise a local option to select circuit court judges and county court judges by merit selection and retention rather than by election shall be held in each circuit and county at the general election in the year 2000. If a vote to exercise this local option fails in a vote of the electors, such option shall not again be put to a vote of the electors of that jurisdiction until the expiration of at least two years.

b. ~~After the year 2000,~~ A circuit may initiate the local option for merit selection and retention or the election of circuit judges, whichever is applicable, by filing with the custodian of state records a petition signed by the number of electors equal to at least ten percent of the votes cast in the circuit in the last preceding election in which presidential electors were chosen.

c. ~~After the year 2000,~~ A county may initiate the local option for merit selection and retention or the election of county court judges, whichever is applicable, by filing with the supervisor of elections a petition signed by the number of electors equal to at least ten percent of the votes cast in the county in the last preceding election in which presidential electors were chosen. The terms of circuit judges and judges of county courts shall be for six years.

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SECTION 11. Vacancies.--

(a) Whenever a vacancy occurs in a judicial office to which election for retention applies, the governor shall fill the vacancy by appointing for a term ending on the first Tuesday after the first Monday in January of the year following the next general election occurring at least one year after the date of appointment, one of not fewer than three persons nor more than six persons nominated by the appropriate judicial nominating commission.

(b) The governor shall fill each vacancy on a circuit court or on a county court, wherein the judges are elected by a majority vote of the electors, by appointing for a term ending on the first Tuesday after the first Monday in January of the year following the next primary and general election occurring at least one year after the date of appointment, one of not fewer than three persons nor more than six persons nominated by the appropriate judicial nominating commission. An election shall be held to fill that judicial office for the term of the office beginning at the end of the appointed term.

(c) The nominations shall be made within thirty days from the occurrence of a vacancy unless the period is extended by the governor for a time not to exceed thirty days. The governor shall make the appointment within sixty days after the nominations have been certified to the governor.

(d) There shall be a separate judicial nominating commission as provided by general law for the supreme court, each district court of appeal, and each judicial circuit for all trial courts within the circuit. Uniform rules of procedure shall be established by the judicial nominating commissions at each level

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of the court system. Such rules, or any part thereof, may be repealed by general law enacted by a majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring. Except for deliberations of the judicial nominating commissions, the proceedings of the commissions and their records shall be open to the public.

SECTION 12. Discipline; removal and retirement.--

(a) JUDICIAL QUALIFICATIONS COMMISSION.--A judicial qualifications commission is created.

(1) There shall be a judicial qualifications commission vested with jurisdiction to investigate and recommend to the Supreme Court of Florida the removal from office of any justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966, (without regard to the effective date of this section) demonstrates a present unfitness to hold office, and to investigate and recommend the discipline of a justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966, (without regard to the effective date of this section), warrants such discipline. For purposes of this section, discipline is defined as any or all of the following: reprimand, fine, suspension with or without pay, or lawyer discipline. The commission shall have jurisdiction over justices and judges regarding allegations that misconduct occurred before or during service as a justice or judge if a complaint is made no later than one year following service as a justice or judge. The commission shall have jurisdiction regarding allegations of incapacity during service as a justice or judge. The commission shall be composed of:

a. Two judges of district courts of appeal selected by the

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1509 judges of those courts, two circuit judges selected by the judges
1510 of the circuit courts and, two judges of county courts selected
1511 by the judges of those courts;

1512 b. Four electors who reside in the state, who are members
1513 of the bar of Florida, and who shall be chosen by the governing
1514 body of the bar of Florida; and

1515 c. Five electors who reside in the state, who have never
1516 held judicial office or been members of the bar of Florida, and
1517 who shall be appointed by the governor.

1518 (2) The members of the judicial qualifications commission
1519 shall serve staggered terms, not to exceed six years, as
1520 prescribed by general law. No member of the commission except a
1521 judge shall be eligible for state judicial office while acting as
1522 a member of the commission and for a period of two years
1523 thereafter. No member of the commission shall hold office in a
1524 political party or participate in any campaign for judicial
1525 office or hold public office; provided that a judge may campaign
1526 for judicial office and hold that office. The commission shall
1527 elect one of its members as its chairperson.

1528 (3) Members of the judicial qualifications commission not
1529 subject to impeachment shall be subject to removal from the
1530 commission pursuant to the provisions of Article IV, Section 7,
1531 Florida Constitution.

1532 (4) The commission shall adopt rules regulating its
1533 proceedings, the filling of vacancies by the appointing
1534 authorities, the disqualification of members, the rotation of
1535 members between the panels, and the temporary replacement of
1536 disqualified or incapacitated members. The commission's rules,
1537 or any part thereof, may be repealed by general law enacted by a

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majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring. The commission shall have power to issue subpoenas. Until formal charges against a justice or judge are filed by the investigative panel with the clerk of the supreme court of Florida all proceedings by or before the commission shall be confidential; provided, however, upon a finding of probable cause and the filing by the investigative panel with said clerk of such formal charges against a justice or judge such charges and all further proceedings before the commission shall be public.

(5) The commission shall have access to all information from all executive, legislative, and judicial agencies, including grand juries, subject to the rules of the commission. At any time, on request of the speaker of the house of representatives or the governor, the commission shall make available all information in the possession of the commission for use in consideration of impeachment or suspension, respectively.

(b) PANELS.--The commission shall be divided into an investigative panel and a hearing panel as established by rule of the commission. The investigative panel is vested with the jurisdiction to receive or initiate complaints, conduct investigations, dismiss complaints, and upon a vote of a simple majority of the panel submit formal charges to the hearing panel. The hearing panel is vested with the authority to receive and hear formal charges from the investigative panel and upon a two-thirds vote of the panel recommend to the supreme court the removal of a justice or judge or the involuntary retirement of a justice or judge for any permanent disability that seriously interferes with the performance of judicial duties. Upon a simple

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1567 majority vote of the membership of the hearing panel, the panel
1568 may recommend to the supreme court that the justice or judge be
1569 subject to appropriate discipline.

1570 (c) SUPREME COURT.--The supreme court shall receive
1571 recommendations from the judicial qualifications commission's
1572 hearing panel.

1573 (1) The supreme court may accept, reject, or modify in
1574 whole or in part the findings, conclusions, and recommendations
1575 of the commission and it may order that the justice or judge be
1576 subjected to appropriate discipline, or be removed from office
1577 with termination of compensation for willful or persistent
1578 failure to perform judicial duties or for other conduct
1579 unbecoming a member of the judiciary demonstrating a present
1580 unfitness to hold office, or be involuntarily retired for any
1581 permanent disability that seriously interferes with the
1582 performance of judicial duties. Mala fides ~~Malafides~~, scienter,
1583 or moral turpitude on the part of a justice or judge shall not be
1584 required for removal from office of a justice or judge whose
1585 conduct demonstrates a present unfitness to hold office. After
1586 the filing of a formal proceeding and upon request of the
1587 investigative panel, the supreme court may suspend the justice or
1588 judge from office, with or without compensation, pending final
1589 determination of the inquiry.

1590 (2) The supreme court may award costs to the prevailing
1591 party.

1592 (d) The power of removal conferred by this section shall be
1593 both alternative and cumulative to the power of impeachment.

1594 (e) Notwithstanding any of the foregoing provisions of this
1595 section, if the person who is the subject of proceedings by the

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judicial qualifications commission is a justice of the supreme court of Florida all justices of such court automatically shall be disqualified to sit as justices of such court with respect to all proceedings therein concerning such person and the supreme court for such purposes shall be composed of a panel consisting of the seven chief judges of the judicial circuits of the state of Florida most senior in tenure of judicial office as circuit judge. For purposes of determining seniority of such circuit judges in the event there be judges of equal tenure in judicial office as circuit judge, the judge or judges from the lower numbered circuit or circuits shall be deemed senior. In the event any such chief circuit judge is under investigation by the judicial qualifications commission or is otherwise disqualified or unable to serve on the panel, the next most senior chief circuit judge or judges shall serve in place of such disqualified or disabled chief circuit judge.

(f) SCHEDULE TO SECTION 12.--

(1) Except to the extent inconsistent with the provisions of this section, all provisions of law and rules of court in force on the effective date of this article shall continue in effect until superseded in the manner authorized by the constitution.

(2) After this section becomes effective and until adopted by rule of the commission consistent with it:

a. The commission shall be divided, as determined by the chairperson, into one investigative panel and one hearing panel to meet the responsibilities set forth in this section.

b. The investigative panel shall be composed of:

1. Four judges,

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1625 2. Two members of the bar of Florida, and
 1626 3. Three non-lawyers.
 1627 c. The hearing panel shall be composed of:
 1628 1. Two judges,
 1629 2. Two members of the bar of Florida, and
 1630 3. Two non-lawyers.
 1631 d. Membership on the panels may rotate in a manner
 1632 determined by the rules of the commission provided that no member
 1633 shall vote as a member of the investigative and hearing panel on
 1634 the same proceeding.
 1635 e. The commission shall hire separate staff for each panel.
 1636 f. The members of the commission shall serve for staggered
 1637 terms of six years.
 1638 g. The terms of office of the present members of the
 1639 judicial qualifications commission shall expire upon the
 1640 effective date of the amendments to this section approved by the
 1641 legislature during the regular session of the legislature in
 1642 1996, and new members shall be appointed to serve the following
 1643 staggered terms:
 1644 1. Group I.--The terms of five members, composed of two
 1645 electors as set forth in s. 12(a)(1)c. of Article V, one member
 1646 of the bar of Florida as set forth in s. 12(a)(1)b. of Article V,
 1647 one judge from the district courts of appeal, and one circuit
 1648 judge as set forth in s. 12(a)(1)a. of Article V, shall expire on
 1649 December 31, 1998.
 1650 2. Group II.--The terms of five members, composed of one
 1651 elector as set forth in s. 12(a)(1)c. of Article V, two members
 1652 of the bar of Florida as set forth in s. 12(a)(1)b. of Article V,
 1653 one circuit judge, and one county judge as set forth in s.

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12(a)(1)a. of Article V shall expire on December 31, 2000.

3. Group III.--The terms of five members, composed of two electors as set forth in s. 12(a)(1)c. of Article V, one member of the bar of Florida as set forth in s. 12(a)(1)b., one judge from the district courts of appeal, and one county judge as set forth in s. 12(a)(1)a. of Article V, shall expire on December 31, 2002.

h. An appointment to fill a vacancy of the commission shall be for the remainder of the term.

i. Selection of members by district courts of appeal judges, circuit judges, and county court judges, shall be by no less than a majority of the members voting at the respective courts' conferences. Selection of members by the board of governors of the bar of Florida shall be by no less than a majority of the board.

j. The commission shall be entitled to recover the costs of investigation and prosecution, in addition to any penalty levied by the supreme court.

k. The compensation of members and referees shall be the travel expenses or transportation and per diem allowance as provided by general law.

SECTION 13. Prohibited activities.--All justices and judges shall devote full time to their judicial duties. They shall not engage in the practice of law or hold office in any political party.

SECTION 14. Funding.--

(a) All justices and judges shall be compensated only by state salaries fixed by general law. Funding for the state courts system, state attorneys' offices, public defenders'

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1683 offices, and court-appointed counsel, except as otherwise
1684 provided in subsection (c), shall be provided from state revenues
1685 appropriated by general law.

1686 (b) All funding for the offices of the clerks of the
1687 circuit and county courts performing court-related functions,
1688 except as otherwise provided in this subsection and subsection
1689 (c), shall be provided by adequate and appropriate filing fees
1690 for judicial proceedings and service charges and costs for
1691 performing court-related functions as required by general law.
1692 Selected salaries, costs, and expenses of the state courts system
1693 may be funded from appropriate filing fees for judicial
1694 proceedings and service charges and costs for performing court-
1695 related functions, as provided by general law. Where the
1696 requirements of either the United States Constitution or the
1697 Constitution of the State of Florida preclude the imposition of
1698 filing fees for judicial proceedings and service charges and
1699 costs for performing court-related functions sufficient to fund
1700 the court-related functions of the offices of the clerks of the
1701 circuit and county courts, the state shall provide, as determined
1702 by the legislature, adequate and appropriate supplemental funding
1703 from state revenues appropriated by general law.

1704 (c) No county or municipality, except as provided in this
1705 subsection, shall be required to provide any funding for the
1706 state courts system, state attorneys' offices, public defenders'
1707 offices, court-appointed counsel, or the offices of the clerks of
1708 the circuit and county courts performing court-related functions.
1709 Counties shall be required to fund the cost of communications
1710 services, existing radio systems, existing multi-agency criminal
1711 justice information systems, and the cost of construction or

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lease, maintenance, utilities, and security of facilities for the trial courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions. Counties shall also pay reasonable and necessary salaries, costs, and expenses of the state courts system to meet local requirements as determined by general law.

(d) The judiciary shall have no power to fix appropriations.

SECTION 15. Attorneys; admission and discipline.--The supreme court shall have exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted.

SECTION 16. Clerks of the circuit courts.--There shall be in each county a clerk of the circuit court who shall be selected pursuant to the provisions of Article VIII, Section 1. Notwithstanding any other provision of the constitution, the duties of the clerk of the circuit court may be divided by special or general law between two officers, one serving as clerk of court and one serving as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds. There may be a clerk of the county court if authorized by general or special law.

SECTION 17. State attorneys.--In each judicial circuit, a state attorney shall be elected for a term of four years. Except as otherwise provided in this constitution, the state attorney shall be the prosecuting officer of all trial courts in that circuit and shall perform other duties prescribed by general law; provided, however, when authorized by general law, the violations

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1741 of all municipal ordinances may be prosecuted by municipal
1742 prosecutors. A state attorney shall be an elector of the state
1743 and reside in the territorial jurisdiction of the circuit, + shall
1744 be and have been a member of the bar of Florida for the preceding
1745 five years, + shall devote full time to the duties of the office, +
1746 and shall not engage in the private practice of law. State
1747 attorneys shall appoint such assistant state attorneys as may be
1748 authorized by law.

1749 SECTION 18. Public defenders.--In each judicial circuit, a
1750 public defender shall be elected for a term of four years, who
1751 shall perform duties prescribed by general law. A public
1752 defender shall be an elector of the state and reside in the
1753 territorial jurisdiction of the circuit and shall be and have
1754 been a member of the bar of Florida for the preceding five years.

1755 Public defenders shall appoint such assistant public defenders
1756 as may be authorized by law.

1757 SECTION 19. Judicial officers as conservators of the
1758 peace.--All judicial officers in this state shall be conservators
1759 of the peace.

1760 SECTION 20. Schedule to Article V.--

1761 (a) This article shall replace all of Article V of the
1762 Constitution of 1885, as amended, which shall then stand
1763 repealed.

1764 (b) Except to the extent inconsistent with the provisions
1765 of this article, all provisions of law and rules of court in
1766 force on the effective date of this article shall continue in
1767 effect until superseded in the manner authorized by the
1768 constitution.

1769 (c) After this article becomes effective, and until changed

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1770 by general law consistent with sections 1 through 19 of this
1771 article:

1772 (1) The supreme court shall have the jurisdiction
1773 immediately theretofore exercised by it, and it shall determine
1774 all proceedings pending before it on the effective date of this
1775 article.

1776 (2) The appellate districts shall be those in existence on
1777 the date of adoption of this article. There shall be a district
1778 court of appeal in each district. The district courts of appeal
1779 shall have the jurisdiction immediately theretofore exercised by
1780 the district courts of appeal and shall determine all proceedings
1781 pending before them on the effective date of this article.

1782 (3) Circuit courts shall have jurisdiction of appeals from
1783 county courts and municipal courts, except those appeals which
1784 may be taken directly to the supreme court; and they shall have
1785 exclusive original jurisdiction in all actions at law not
1786 cognizable by the county courts; of proceedings relating to the
1787 settlement of the estate of decedents and minors, the granting of
1788 letters testamentary, guardianship, involuntary hospitalization,
1789 the determination of incompetency, and other jurisdiction usually
1790 pertaining to courts of probate; in all cases in equity including
1791 all cases relating to juveniles; of all felonies and of all
1792 misdemeanors arising out of the same circumstances as a felony
1793 which is also charged; in all cases involving legality of any tax
1794 assessment or toll; in the action of ejectment; and in all
1795 actions involving the titles or boundaries or right of possession
1796 of real property. The circuit court may issue injunctions.
1797 There shall be judicial circuits which shall be the judicial
1798 circuits in existence on the date of adoption of this article.

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1799 The chief judge of a circuit may authorize a county court judge
1800 to order emergency hospitalizations pursuant to Chapter 71-131,
1801 Laws of Florida, in the absence from the county of the circuit
1802 judge and the county court judge shall have the power to issue
1803 all temporary orders and temporary injunctions necessary or
1804 proper to the complete exercise of such jurisdiction.

1805 (4) County courts shall have original jurisdiction in all
1806 criminal misdemeanor cases not cognizable by the circuit courts,
1807 of all violations of municipal and county ordinances, and of all
1808 actions at law in which the matter in controversy does not exceed
1809 the sum of two thousand five hundred dollars (\$2,500.00)
1810 exclusive of interest and costs, except those within the
1811 exclusive jurisdiction of the circuit courts. Judges of county
1812 courts shall be committing magistrates. The county courts shall
1813 have jurisdiction now exercised by the county judge's courts
1814 other than that vested in the circuit court by subsection (c)(3)
1815 hereof, the jurisdiction now exercised by the county courts, the
1816 claims court, the small claims courts, the small claims
1817 magistrates courts, magistrates courts, justice of the peace
1818 courts, municipal courts and courts of chartered counties,
1819 including but not limited to the counties referred to in Article
1820 VIII, sections 9, 10, 11 and 24 of the Constitution of 1885.

1821 (5) Each judicial nominating commission shall be composed
1822 of the following:

1823 a. Three members appointed by the Board of Governors of The
1824 Florida Bar from among The Florida Bar members who are actively
1825 engaged in the practice of law with offices within the
1826 territorial jurisdiction of the affected court, district or
1827 circuit;

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b. Three electors who reside in the territorial jurisdiction of the court or circuit appointed by the governor; and

c. Three electors who reside in the territorial jurisdiction of the court or circuit and who are not members of the bar of Florida, selected and appointed by a majority vote of the other six members of the commission.

(6) No justice or judge shall be a member of a judicial nominating commission. A member of a judicial nominating commission may hold public office other than judicial office. No member shall be eligible for appointment to state judicial office so long as that person is a member of a judicial nominating commission and for a period of two years thereafter. All acts of a judicial nominating commission shall be made with a concurrence of a majority of its members.

(7) The members of a judicial nominating commission shall serve for a term of four years. ~~except the terms of the initial members of the judicial nominating commissions shall expire as follows:~~

~~a. The terms of one member of category a. b. and c. in subsection (c) (5) hereof shall expire on July 1, 1974;~~

~~b. The terms of one member of category a. b. and c. in subsection (c) (5) hereof shall expire on July 1, 1975;~~

~~c. The terms of one member of category a. b. and c. in subsection (c) (5) hereof shall expire on July 1, 1976;~~

(8) All fines and forfeitures arising from offenses tried in the county court shall be collected, and accounted for by clerk of the court, and deposited in a special trust account. All fines and forfeitures received from violations of ordinances

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1857 or misdemeanors committed within a county or municipal ordinances
 1858 committed within a municipality within the territorial
 1859 jurisdiction of the county court shall be paid monthly to the
 1860 county or municipality respectively. If any costs are assessed
 1861 and collected in connection with offenses tried in county court,
 1862 all court costs shall be paid into the general revenue fund of
 1863 the state of Florida and such other funds as prescribed by
 1864 general law.

1865 (9) Any municipality or county may apply to the chief judge
 1866 of the circuit in which that municipality or county is situated
 1867 for the county court to sit in a location suitable to the
 1868 municipality or county and convenient in time and place to its
 1869 citizens and police officers and upon such application said chief
 1870 judge shall direct the court to sit in the location unless the
 1871 chief judge shall determine the request is not justified. If the
 1872 chief judge does not authorize the county court to sit in the
 1873 location requested, the county or municipality may apply to the
 1874 supreme court for an order directing the county court to sit in
 1875 the location. Any municipality or county which so applies shall
 1876 be required to provide the appropriate physical facilities in
 1877 which the county court may hold court.

1878 (10) All courts except the supreme court may sit in
 1879 divisions as may be established by local rule approved by the
 1880 supreme court.

1881 (11) A county court judge in any county having a population
 1882 of 40,000 or less according to the last decennial census, shall
 1883 not be required to be a member of the bar of Florida.

1884 (12) Municipal prosecutors may prosecute violations of
 1885 municipal ordinances.

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1886 (13) Justice shall mean a justice elected or appointed to
1887 the supreme court and shall not include any judge assigned from
1888 any court.

1889 (d) When this article becomes effective:

1890 (1) All courts not herein authorized, except as provided by
1891 subsection (d)(4) of this section shall cease to exist and
1892 jurisdiction to conclude all pending cases and enforce all prior
1893 orders and judgments shall vest in the court that would have
1894 jurisdiction of the cause if thereafter instituted. All records
1895 of and property held by courts abolished hereby shall be
1896 transferred to the proper office of the appropriate court under
1897 this article.

1898 (2) Judges of the following courts, if their terms do not
1899 expire in 1973 and if they are eligible under subsection (d)(8)
1900 hereof, shall become additional judges of the circuit court for
1901 each of the counties of their respective circuits, and shall
1902 serve as such circuit judges for the remainder of the terms to
1903 which they were elected and shall be eligible for election as
1904 circuit judges thereafter. These courts are: civil court of
1905 record of Dade county, all criminal courts of record, the felony
1906 courts of record of Alachua, Leon, and Volusia Counties, the
1907 courts of record of Broward, Brevard, Escambia, Hillsborough,
1908 Lee, Manatee, and Sarasota Counties, the civil and criminal court
1909 of record of Pinellas County, and county judge's courts and
1910 separate juvenile courts in counties having a population in
1911 excess of 100,000 according to the 1970 federal census. On the
1912 effective date of this article, there shall be an additional
1913 number of positions of circuit judges equal to the number of
1914 existing circuit judges and the number of judges of the above

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1915 named courts whose term expires in 1973. Elections to such
1916 offices shall take place at the same time and manner as elections
1917 to other state judicial offices in 1972 and the terms of such
1918 offices shall be for a term of six years. Unless changed
1919 pursuant to section nine of this article, the number of circuit
1920 judges presently existing and created by this subsection shall
1921 not be changed.

1922 (3) In all counties having a population of less than
1923 100,000 according to the 1970 federal census and having more than
1924 one county judge on the date of the adoption of this article,
1925 there shall be the same number of judges of the county court as
1926 there are county judges existing on that date unless changed
1927 pursuant to section 9 of this article.

1928 (4) Municipal courts shall continue with their same
1929 jurisdiction until amended or terminated in a manner prescribed
1930 by special or general law or ordinances, or until January 3,
1931 1977, whichever occurs first. On that date all municipal courts
1932 not previously abolished shall cease to exist. Judges of
1933 municipal courts shall remain in office and be subject to
1934 reappointment or reelection in the manner prescribed by law until
1935 said courts are terminated pursuant to the provisions of this
1936 subsection. Upon municipal courts being terminated or abolished
1937 in accordance with the provisions of this subsection, the judges
1938 thereof who are not members of the bar of Florida, shall be
1939 eligible to seek election as judges of county courts of their
1940 respective counties.

1941 (5) Judges, holding elective office in all other courts
1942 abolished by this article, whose terms do not expire in 1973
1943 including judges established pursuant to Article VIII, sections 9

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1944 and 11 of the Constitution of 1885 shall serve as judges of the
1945 county court for the remainder of the term to which they were
1946 elected. Unless created pursuant to section 9, of this Article V
1947 such judicial office shall not continue to exist thereafter.

1948 ~~(6) By March 21, 1972, the supreme court shall certify the~~
1949 ~~need for additional circuit and county judges. The legislature~~
1950 ~~in the 1972 regular session may by general law create additional~~
1951 ~~offices of judge, the terms of which shall begin on the effective~~
1952 ~~date of this article. Elections to such offices shall take place~~
1953 ~~at the same time and manner as election to other state judicial~~
1954 ~~offices in 1972.~~

1955 (6)~~(7)~~ County judges of existing county judge's courts and
1956 justices of the peace and magistrates' court who are not members
1957 of bar of Florida shall be eligible to seek election as county
1958 court judges of their respective counties.

1959 (7)~~(8)~~ No judge of a court abolished by this article shall
1960 become or be eligible to become a judge of the circuit court
1961 unless the judge has been a member of bar of Florida for the
1962 preceding five years.

1963 (8)~~(9)~~ The office of judges of all other courts abolished
1964 by this article shall be abolished as of the effective date of
1965 this article.

1966 ~~(10) The offices of county solicitor and prosecuting~~
1967 ~~attorney shall stand abolished, and all county solicitors and~~
1968 ~~prosecuting attorneys holding such offices upon the effective~~
1969 ~~date of this article shall become and serve as assistant state~~
1970 ~~attorneys for the circuits in which their counties are situate~~
1971 ~~for the remainder of their terms, with compensation not less than~~
1972 ~~that received immediately before the effective date of this~~

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1973 ~~article.~~

1974 (e) LIMITED OPERATION OF SOME PROVISIONS.--

1975 ~~(1) All justices of the supreme court, judges of the~~
 1976 ~~district courts of appeal and circuit judges in office upon the~~
 1977 ~~effective date of this article shall retain their offices for the~~
 1978 ~~remainder of their respective terms. All members of the judicial~~
 1979 ~~qualifications commission in office upon the effective date of~~
 1980 ~~this article shall retain their offices for the remainder of~~
 1981 ~~their respective terms. Each state attorney in office on the~~
 1982 ~~effective date of this article shall retain the office for the~~
 1983 ~~remainder of the term.~~

1984 (1)(2) No justice or judge holding office immediately after
 1985 this article becomes effective who held judicial office on July
 1986 1, 1957, shall be subject to retirement from judicial office
 1987 because of age pursuant to section 8 of this article.

1988 (f) Until otherwise provided by law, the nonjudicial duties
 1989 required of county judges shall be performed by the judges of the
 1990 county court.

1991 ~~(g) All provisions of Article V of the Constitution of~~
 1992 ~~1885, as amended, not embraced herein which are not inconsistent~~
 1993 ~~with this revision shall become statutes subject to modification~~
 1994 ~~or repeal as are other statutes.~~

1995 ~~(h) The requirements of section 14 relative to all county~~
 1996 ~~court judges or any judge of a municipal court who continues to~~
 1997 ~~hold office pursuant to subsection (d) (4) hereof being~~
 1998 ~~compensated by state salaries shall not apply prior to January 3,~~
 1999 ~~1977, unless otherwise provided by general law.~~

2000 (g)(i) DELETION OF OBSOLETE SCHEDULE ITEMS.--The
 2001 legislature shall have power, by concurrent resolution, to delete

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from this article any subsection of this section 20 including this subsection, when all events to which the subsection to be deleted is or could become applicable have occurred. A legislative determination of fact made as a basis for application of this subsection shall be subject to judicial review.

~~(j) EFFECTIVE DATE.--Unless otherwise provided herein, this article shall become effective at 11:59 o'clock P.M., Eastern Standard Time, January 1, 1973.~~

ARTICLE VI

SUFFRAGE AND ELECTIONS

SECTION 1. Regulation of elections.--All elections by the people shall be by direct and secret vote. General elections shall be determined by a plurality of votes cast. Registration and elections shall, and political party functions may, be regulated by law; however, the requirements for a candidate with no party affiliation or for a candidate of a minor party for placement of the candidate's name on the ballot shall be no greater than the requirements for a candidate of the party having the largest number of registered voters.

SECTION 2. Electors.--Every citizen of the United States who is at least eighteen years of age and who is a permanent resident of the state, if registered as provided by law, shall be an elector of the county where registered.

SECTION 3. Oath.--Each eligible citizen upon registering shall subscribe the following: "I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, and that I am qualified to register as an elector under the Constitution and

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2031 laws of the State of Florida."

2032 SECTION 4. Disqualifications.--

2033 (a) No person convicted of a felony, or adjudicated in this
2034 or any other state to be mentally incompetent, shall be qualified
2035 to vote or hold office until restoration of civil rights or
2036 removal of disability.

2037 (b) No person may appear on the ballot for re-election to
2038 any of the following offices:

- 2039 (1) Florida representative,
- 2040 (2) Florida senator,
- 2041 (3) Florida Lieutenant governor, or
- 2042 (4) Any office of the Florida cabinet,
- 2043 ~~(5) U.S. Representative from Florida, or~~
- 2044 ~~(6) U.S. Senator from Florida~~

2045

2046 if, by the end of the current term of office, the person will
2047 have served (or, but for resignation, would have served) in that
2048 office for eight consecutive years.

2049 SECTION 5. Primary, general, and special elections.--

2050 (a) A general election shall be held in each county on the
2051 first Tuesday after the first Monday in November of each even-
2052 numbered year to choose a successor to each elective state and
2053 county officer whose term will expire before the next general
2054 election and, except as provided herein, to fill each vacancy in
2055 elective office for the unexpired portion of the term. A general
2056 election may be suspended or delayed due to a state of emergency
2057 or impending emergency pursuant to general law. Special
2058 elections and referenda shall be held as provided by law.

2059 (b) If all candidates for an office have the same party

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affiliation and the winner will have no opposition in the general election, all qualified electors, regardless of party affiliation, may vote in the primary elections for that office.

SECTION 6. Municipal and district elections.--Registration and elections in municipalities shall, and in other governmental entities created by statute may, be provided by law.

SECTION 7. Campaign spending limits and funding of campaigns for elective statewide ~~state-wide~~ office.--It is the policy of this state to provide for state-wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state-wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.

ARTICLE VII

FINANCE AND TAXATION

SECTION 1. Taxation; appropriations; state expenses; state revenue limitation.--

(a) No tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.

(b) Motor vehicles, boats, airplanes, trailers, trailer coaches, and mobile homes, as defined by law, shall be subject to

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2089 a license tax for their operation in the amounts and for the
2090 purposes prescribed by law, but shall not be subject to ad
2091 valorem taxes.

2092 (c) No money shall be drawn from the treasury except in
2093 pursuance of appropriation made by law.

2094 (d) Provision shall be made by law for raising sufficient
2095 revenue to defray the expenses of the state for each fiscal
2096 period.

2097 (e) Except as provided herein, state revenues collected for
2098 any fiscal year shall be limited to state revenues allowed under
2099 this subsection for the prior fiscal year plus an adjustment for
2100 growth. As used in this subsection, "growth" means an amount
2101 equal to the average annual rate of growth in Florida personal
2102 income over the most recent twenty quarters times the state
2103 revenues allowed under this subsection for the prior fiscal year.
2104 ~~For the 1995-1996 fiscal year, the state revenues allowed under~~
2105 ~~this subsection for the prior fiscal year shall equal the state~~
2106 ~~revenues collected for the 1994-1995 fiscal year.~~ Florida
2107 personal income shall be determined by the legislature, from
2108 information available from the United States Department of
2109 Commerce or its successor on the first day of February prior to
2110 the beginning of the fiscal year. State revenues collected for
2111 any fiscal year in excess of this limitation shall be transferred
2112 to the budget stabilization fund until the fund reaches the
2113 maximum balance specified in Section 19(g) of Article III, and
2114 thereafter shall be refunded to taxpayers as provided by general
2115 law. State revenues allowed under this subsection for any fiscal
2116 year may be increased by a two-thirds vote of the membership of
2117 each house of the legislature in a separate bill that contains no

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2118 other subject and that sets forth the dollar amount by which the
 2119 state revenues allowed will be increased. The vote may not be
 2120 taken less than seventy-two hours after the third reading of the
 2121 bill. For purposes of this subsection, "state revenues" means
 2122 taxes, fees, licenses, and charges for services imposed by the
 2123 legislature on individuals, businesses, or agencies outside state
 2124 government. However, "state revenues" does not include: revenues
 2125 that are necessary to meet the requirements set forth in
 2126 documents authorizing the issuance of bonds by the state;
 2127 revenues that are used to provide matching funds for the federal
 2128 Medicaid program with the exception of the revenues used to
 2129 support the Public Medical Assistance Trust Fund or its successor
 2130 program and with the exception of state matching funds used to
 2131 fund elective expansions made after July 1, 1994; proceeds from
 2132 the state lottery returned as prizes; receipts of the Florida
 2133 Hurricane Catastrophe Fund; balances carried forward from prior
 2134 fiscal years; taxes, licenses, fees, and charges for services
 2135 imposed by local, regional, or school district governing bodies;
 2136 or revenue from taxes, licenses, fees, and charges for services
 2137 required to be imposed by any amendment or revision to this
 2138 constitution after July 1, 1994. An adjustment to the revenue
 2139 limitation shall be made by general law to reflect the fiscal
 2140 impact of transfers of responsibility for the funding of
 2141 governmental functions between the state and other levels of
 2142 government. The legislature shall, by general law, prescribe
 2143 procedures necessary to administer this subsection.

2144 SECTION 2. Taxes; rate.--All ad valorem taxation shall be
 2145 at a uniform rate within each taxing unit, except the taxes on
 2146 intangible personal property may be at different rates but shall

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2147 never exceed two mills on the dollar of assessed value; provided,
2148 as to any obligations secured by mortgage, deed of trust, or
2149 other lien on real estate wherever located, an intangible tax of
2150 not more than two mills on the dollar may be levied by law to be
2151 in lieu of all other intangible assessments on such obligations.

2152 SECTION 3. Taxes; exemptions.--

2153 (a) All property owned by a municipality and used
2154 exclusively by it for municipal or public purposes shall be
2155 exempt from taxation. A municipality, owning property outside
2156 the municipality, may be required by general law to make payment
2157 to the taxing unit in which the property is located. Such
2158 portions of property as are used predominantly for educational,
2159 literary, scientific, religious, or charitable purposes may be
2160 exempted by general law from taxation.

2161 (b) There shall be exempt from taxation, cumulatively, to
2162 every head of a family residing in this state, household goods
2163 and personal effects to the value fixed by general law, not less
2164 than one thousand dollars, and to every widow or widower or
2165 person who is blind or totally and permanently disabled, property
2166 to the value fixed by general law not less than five hundred
2167 dollars.

2168 (c) Any county or municipality may, for the purpose of its
2169 respective tax levy and subject to the provisions of this
2170 subsection and general law, grant community and economic
2171 development ad valorem tax exemptions to new businesses and
2172 expansions of existing businesses, as defined by general law.
2173 Such an exemption may be granted only by ordinance of the county
2174 or municipality, and only after the electors of the county or
2175 municipality voting on such question in a referendum authorize

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the county or municipality to adopt such ordinances. An exemption so granted shall apply to improvements to real property made by or for the use of a new business and improvements to real property related to the expansion of an existing business and shall also apply to tangible personal property of such new business and tangible personal property related to the expansion of an existing business. The amount or limits of the amount of such exemption shall be specified by general law. The period of time for which such exemption may be granted to a new business or expansion of an existing business shall be determined by general law. The authority to grant such exemption shall expire ten years from the date of approval by the electors of the county or municipality, and may be renewable by referendum as provided by general law.

(d) By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.

(e) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant historic preservation ad valorem tax exemptions to owners of historic properties. This exemption may be granted only by ordinance of the county or municipality. The amount or limits of the amount of this exemption and the requirements for eligible properties must be specified by general law. The period of time for which this exemption may be granted to a property owner shall be determined

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2205 by general law.

2206 SECTION 4. Taxation; assessments.--By general law
2207 regulations shall be prescribed which shall secure a just
2208 valuation of all property for ad valorem taxation, provided:

2209 (a) Agricultural land, land producing high water recharge
2210 to Florida's aquifers, or land used exclusively for noncommercial
2211 recreational purposes may be classified by general law and
2212 assessed solely on the basis of character or use.

2213 (b) Pursuant to general law tangible personal property held
2214 for sale as stock in trade and livestock may be valued for
2215 taxation at a specified percentage of its value, may be
2216 classified for tax purposes, or may be exempted from taxation.

2217 (c) All persons entitled to a homestead exemption under
2218 Section 6 of this Article shall have their homestead assessed at
2219 just value as of January 1 of the year following the effective
2220 date of this amendment. This assessment shall change only as
2221 provided herein.

2222 (1) Assessments subject to this provision shall be changed
2223 annually on January 1st of each year; but those changes in
2224 assessments shall not exceed the lower of the following:

2225 a. Three percent (3%) of the assessment for the prior year.

2226 b. The percent change in the Consumer Price Index for all
2227 urban consumers, U.S. City Average, all items 1967=100, or
2228 successor reports for the preceding calendar year as initially
2229 reported by the United States Department of Labor, Bureau of
2230 Labor Statistics.

2231 (2) No assessment shall exceed just value.

2232 (3) After any change of ownership, as provided by general
2233 law, homestead property shall be assessed at just value as of

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2234 January 1 of the following year. Thereafter, the homestead shall
2235 be assessed as provided herein.

2236 (4) New homestead property shall be assessed at just value
2237 as of January 1st of the year following the establishment of the
2238 homestead. That assessment shall only change as provided herein.

2239 (5) Changes, additions, reductions, or improvements to
2240 homestead property shall be assessed as provided for by general
2241 law; provided, however, after the adjustment for any change,
2242 addition, reduction, or improvement, the property shall be
2243 assessed as provided herein.

2244 (6) In the event of a termination of homestead status, the
2245 property shall be assessed as provided by general law.

2246 (7) The provisions of this amendment are severable. If any
2247 of the provisions of this amendment shall be held
2248 unconstitutional by any court of competent jurisdiction, the
2249 decision of such court shall not affect or impair any remaining
2250 provisions of this amendment.

2251 (d) The legislature may, by general law, for assessment
2252 purposes and subject to the provisions of this subsection, allow
2253 counties and municipalities to authorize by ordinance that
2254 historic property may be assessed solely on the basis of
2255 character or use. Such character or use assessment shall apply
2256 only to the jurisdiction adopting the ordinance. The
2257 requirements for eligible properties must be specified by general
2258 law.

2259 (e) A county may, in the manner prescribed by general law,
2260 provide for a reduction in the assessed value of homestead
2261 property to the extent of any increase in the assessed value of
2262 that property which results from the construction or

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2263 reconstruction of the property for the purpose of providing
2264 living quarters for one or more natural or adoptive grandparents
2265 or parents of the owner of the property or of the owner's spouse
2266 if at least one of the grandparents or parents for whom the
2267 living quarters are provided is 62 years of age or older. Such a
2268 reduction may not exceed the lesser of the following:

2269 (1) The increase in assessed value resulting from
2270 construction or reconstruction of the property.

2271 (2) Twenty percent of the total assessed value of the
2272 property as improved.

2273 SECTION 5. Estate, inheritance, and income taxes.--

2274 (a) NATURAL PERSONS. No tax upon estates or inheritances
2275 or upon the income of natural persons who are residents or
2276 citizens of the state shall be levied by the state, or under its
2277 authority, in excess of the aggregate of amounts which may be
2278 allowed to be credited upon or deducted from any similar tax
2279 levied by the United States or any state.

2280 (b) OTHERS. No tax upon the income of residents and
2281 citizens other than natural persons shall be levied by the state,
2282 or under its authority, in excess of five percent 5% of net
2283 income, as defined by law, or at such greater rate as is
2284 authorized by a three-fifths(3/5)vote of the membership of each
2285 house of the legislature or as will provide for the state the
2286 maximum amount which may be allowed to be credited against income
2287 taxes levied by the United States and other states. There shall
2288 be exempt from taxation not less than five thousand dollars
2289 (\$5,000) of the excess of net income subject to tax over the
2290 maximum amount allowed to be credited against income taxes levied
2291 by the United States and other states.

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2292 (c) EFFECTIVE DATE. This section shall become effective
2293 immediately upon approval by the electors of Florida.

2294 SECTION 6. Homestead exemptions.--

2295 (a) Every person who has the legal or equitable title to
2296 real estate and maintains thereon the permanent residence of the
2297 owner, or another legally or naturally dependent upon the owner,
2298 shall be exempt from taxation thereon, except assessments for
2299 special benefits, up to the assessed valuation of five thousand
2300 dollars, upon establishment of right thereto in the manner
2301 prescribed by law. The real estate may be held by legal or
2302 equitable title, by the entirety, jointly, in common, as a
2303 condominium, or indirectly by stock ownership or membership
2304 representing the owner's or member's proprietary interest in a
2305 corporation owning a fee or a leasehold initially in excess of
2306 ninety-eight years.

2307 (b) Not more than one exemption shall be allowed any
2308 individual or family unit or with respect to any residential
2309 unit. No exemption shall exceed the value of the real estate
2310 assessable to the owner or, in case of ownership through stock or
2311 membership in a corporation, the value of the proportion which
2312 the interest in the corporation bears to the assessed value of
2313 the property.

2314 (c) By general law and subject to conditions specified
2315 therein, the exemption shall be increased to a total of twenty-
2316 five thousand dollars of the assessed value of the real estate
2317 for each school district levy. By general law and subject to
2318 conditions specified therein, the exemption for all other levies
2319 may be increased up to an amount not exceeding ten thousand
2320 dollars of the assessed value of the real estate if the owner has

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2321 attained age sixty-five or is totally and permanently disabled
2322 and if the owner is not entitled to the exemption provided in
2323 subsection (d).

2324 (d) By general law and subject to conditions specified
2325 therein, the exemption shall be increased to a total of the
2326 following amounts of assessed value of real estate for each levy
2327 other than those of school districts: fifteen thousand dollars
2328 with respect to 1980 assessments; twenty thousand dollars with
2329 respect to 1981 assessments; twenty-five thousand dollars with
2330 respect to assessments for 1982 and each year thereafter.
2331 However, such increase shall not apply with respect to any
2332 assessment roll until such roll is first determined to be in
2333 compliance with the provisions of section 4 by a state agency
2334 designated by general law. This subsection shall stand repealed
2335 on the effective date of any amendment to section 4 which
2336 provides for the assessment of homestead property at a specified
2337 percentage of its just value.

2338 (e) By general law and subject to conditions specified
2339 therein, the Legislature may provide to renters, who are
2340 permanent residents, ad valorem tax relief on all ad valorem tax
2341 levies. Such ad valorem tax relief shall be in the form and
2342 amount established by general law.

2343 (f) The legislature may, by general law, allow counties or
2344 municipalities, for the purpose of their respective tax levies
2345 and subject to the provisions of general law, to grant an
2346 additional homestead tax exemption not exceeding twenty-five
2347 thousand dollars to any person who has the legal or equitable
2348 title to real estate and maintains thereon the permanent
2349 residence of the owner and who has attained age sixty-five and

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whose household income, as defined by general law, does not exceed twenty thousand dollars. The general law must allow counties and municipalities to grant this additional exemption, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living.

SECTION 7. Allocation of pari-mutuel taxes.--Taxes upon the operation of pari-mutuel pools may be preempted to the state or allocated in whole or in part to the counties. When allocated to the counties, the distribution shall be in equal amounts to the several counties.

SECTION 8. Aid to local governments.--State funds may be appropriated to the several counties, school districts, municipalities, or special districts upon such conditions as may be provided by general law. These conditions may include the use of relative ad valorem assessment levels determined by a state agency designated by general law.

SECTION 9. Local taxes.--

(a) Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.

(b) Ad valorem taxes, exclusive of taxes levied for the payment of bonds and taxes levied for periods not longer than two years when authorized by vote of the electors who are the owners of freeholds therein not wholly exempt from taxation, shall not

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2379 be levied in excess of the following millages upon the assessed
 2380 value of real estate and tangible personal property: for all
 2381 county purposes, ten mills; for all municipal purposes, ten
 2382 mills; for all school purposes, ten mills; for water management
 2383 purposes for the northwest portion of the state lying west of the
 2384 line between ranges two and three east, 0.05 mill; for water
 2385 management purposes for the remaining portions of the state, 1.0
 2386 mill; and for all other special districts a millage authorized by
 2387 law approved by vote of the electors who are owners of freeholds
 2388 therein not wholly exempt from taxation. A county furnishing
 2389 municipal services may, to the extent authorized by law, levy
 2390 additional taxes within the limits fixed for municipal purposes.

2391 SECTION 10. Pledging credit.--Neither the state nor any
 2392 county, school district, municipality, special district, or
 2393 agency of any of them, shall become a joint owner with, or
 2394 stockholder of, or give, lend, or use its taxing power or credit
 2395 to aid any corporation, association, partnership, or person; but
 2396 this shall not prohibit laws authorizing:

- 2397 (a) The investment of public trust funds;
- 2398 (b) The investment of other public funds in obligations of,
 2399 or insured by, the United States or any of its instrumentalities;
- 2400 (c) The issuance and sale by any county, municipality,
 2401 special district, or other local governmental body of (1) revenue
 2402 bonds to finance or refinance the cost of capital projects for
 2403 airports or port facilities, or (2) revenue bonds to finance or
 2404 refinance the cost of capital projects for industrial or
 2405 manufacturing plants to the extent that the interest thereon is
 2406 exempt from income taxes under the then existing laws of the
 2407 United States, when, in either case, the revenue bonds are

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payable solely from revenue derived from the sale, operation, or leasing of the projects. If any project so financed, or any part thereof, is occupied or operated by any private corporation, association, partnership, or person pursuant to contract or lease with the issuing body, the property interest created by such contract or lease shall be subject to taxation to the same extent as other privately owned property.

(d) a municipality, county, special district, or agency of any of them, being a joint owner of, giving, or lending or using its taxing power or credit for the joint ownership, construction, and operation of electrical energy generating or transmission facilities with any corporation, association, partnership, or person.

SECTION 11. State bonds; revenue bonds.--

(a) State bonds pledging the full faith and credit of the state may be issued only to finance or refinance the cost of state fixed capital outlay projects authorized by law, and purposes incidental thereto, upon approval by a vote of the electors; provided state bonds issued pursuant to this subsection may be refunded without a vote of the electors at a lower net average interest cost rate. The total outstanding principal of state bonds issued pursuant to this subsection shall never exceed fifty percent of the total tax revenues of the state for the two preceding fiscal years, excluding any tax revenues held in trust under the provisions of this constitution.

(b) Moneys sufficient to pay debt service on state bonds as the same becomes due shall be appropriated by law.

(c) Any state bonds pledging the full faith and credit of the state issued under this section or any other section of this

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2437 constitution may be combined for the purposes of sale.

2438 (d) Revenue bonds may be issued by the state or its
2439 agencies without a vote of the electors to finance or refinance
2440 the cost of state fixed capital outlay projects authorized by
2441 law, and purposes incidental thereto, and shall be payable solely
2442 from funds derived directly from sources other than state tax
2443 revenues.

2444 (e) Bonds pledging all or part of a dedicated state tax
2445 revenue may be issued by the state in the manner provided by
2446 general law to finance or refinance the acquisition and
2447 improvement of land, water areas, and related property interests
2448 and resources for the purposes of conservation, outdoor
2449 recreation, water resource development, restoration of natural
2450 systems, and historic preservation.

2451 (f) Each project, building, or facility to be financed or
2452 refinanced with revenue bonds issued under this section shall
2453 first be approved by the Legislature by an act relating to
2454 appropriations or by general law.

2455 SECTION 12. Local bonds.--Counties, school districts,
2456 municipalities, special districts, and local governmental bodies
2457 with taxing powers may issue bonds, certificates of indebtedness,
2458 or any form of tax anticipation certificates, payable from ad
2459 valorem taxation and maturing more than twelve months after
2460 issuance only:

2461 (a) To finance or refinance capital projects authorized by
2462 law and only when approved by vote of the electors who are owners
2463 of freeholds therein not wholly exempt from taxation; or

2464 (b) To refund outstanding bonds and interest and redemption
2465 premium thereon at a lower net average interest cost rate.

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2466 SECTION 13. Relief from illegal taxes.--Until payment of
2467 all taxes which have been legally assessed upon the property of
2468 the same owner, no court shall grant relief from the payment of
2469 any tax that may be illegal or illegally assessed.

2470 SECTION 14. Bonds for pollution control and abatement and
2471 other water facilities.--

2472 (a) When authorized by law, state bonds pledging the full
2473 faith and credit of the state may be issued without an election
2474 to finance the construction of air and water pollution control
2475 and abatement and solid waste disposal facilities and other water
2476 facilities authorized by general law (herein referred to as
2477 "facilities") to be operated by any municipality, county,
2478 district or authority, or any agency thereof (herein referred to
2479 as "local governmental agencies"), or by any agency of the State
2480 of Florida. Such bonds shall be secured by a pledge of and shall
2481 be payable primarily from all or any part of revenues to be
2482 derived from operation of such facilities, special assessments,
2483 rentals to be received under lease-purchase agreements herein
2484 provided for, any other revenues that may be legally available
2485 for such purpose, including revenues from other facilities, or
2486 any combination thereof (herein collectively referred to as
2487 "pledged revenues"), and shall be additionally secured by the
2488 full faith and credit of the State of Florida.

2489 (b) No such bonds shall be issued unless a state fiscal
2490 agency, created by law, has made a determination that in no state
2491 fiscal year will the debt service requirements of the bonds
2492 proposed to be issued and all other bonds secured by the pledged
2493 revenues exceed seventy-five per cent of the pledged revenues.

2494 (c) The state may lease any of such facilities to any local

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2495 governmental agency, under lease-purchase agreements for such
2496 periods and under such other terms and conditions as may be
2497 mutually agreed upon. The local governmental agencies may pledge
2498 the revenues derived from such leased facilities or any other
2499 available funds for the payment of rentals thereunder; and, in
2500 addition, the full faith and credit and taxing power of such
2501 local governmental agencies may be pledged for the payment of
2502 such rentals without any election of freeholder electors or
2503 qualified electors.

2504 (d) The state may also issue such bonds for the purpose of
2505 loaning money to local governmental agencies, for the
2506 construction of such facilities to be owned or operated by any of
2507 such local governmental agencies. Such loans shall bear interest
2508 at not more than one-half of one per cent per annum greater than
2509 the last preceding issue of state bonds pursuant to this section,
2510 shall be secured by the pledged revenues, and may be additionally
2511 secured by the full faith and credit of the local governmental
2512 agencies.

2513 (e) The total outstanding principal of state bonds issued
2514 pursuant to this section ~~14~~ shall never exceed fifty per cent of
2515 the total tax revenues of the state for the two preceding fiscal
2516 years.

2517 SECTION 15. Revenue bonds for scholarship loans.--

2518 (a) When authorized by law, revenue bonds may be issued to
2519 establish a fund to make loans to students determined eligible as
2520 prescribed by law and who have been admitted to attend any public
2521 or private institutions of higher learning, junior colleges,
2522 health related training institutions, or vocational training
2523 centers, which are recognized or accredited under terms and

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conditions prescribed by law. Revenue bonds issued pursuant to this section shall be secured by a pledge of and shall be payable primarily from payments of interest, principal, and handling charges to such fund from the recipients of the loans and, if authorized by law, may be additionally secured by student fees and by any other moneys in such fund. There shall be established from the proceeds of each issue of revenue bonds a reserve account in an amount equal to and sufficient to pay the greatest amount of principal, interest, and handling charges to become due on such issue in any ensuing state fiscal year.

(b) Interest moneys in the fund established pursuant to this section, not required in any fiscal year for payment of debt service on then outstanding revenue bonds or for maintenance of the reserve account, may be used for educational loans to students determined to be eligible therefor in the manner provided by law, or for such other related purposes as may be provided by law.

SECTION 16. Bonds for housing and related facilities.--

(a) When authorized by law, revenue bonds may be issued without an election to finance or refinance housing and related facilities in Florida, herein referred to as "facilities."

(b) The bonds shall be secured by a pledge of and shall be payable primarily from all or any part of revenues to be derived from the financing, operation or sale of such facilities, mortgage or loan payments, and any other revenues or assets that may be legally available for such purposes derived from sources other than ad valorem taxation, including revenues from other facilities, or any combination thereof, herein collectively referred to as "pledged revenues," provided that in no event

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shall the full faith and credit of the state be pledged to secure such revenue bonds.

(c) No bonds shall be issued unless a state fiscal agency, created by law, has made a determination that in no state fiscal year will the debt service requirements of the bonds proposed to be issued and all other bonds secured by the same pledged revenues exceed the pledged revenues available for payment of such debt service requirements, as defined by law.

SECTION 17. Bonds for acquiring transportation right-of-way or for constructing bridges.--

(a) When authorized by law, state bonds pledging the full faith and credit of the state may be issued, without a vote of the electors, to finance or refinance the cost of acquiring real property or the rights to real property for state roads as defined by law, or to finance or refinance the cost of state bridge construction, and purposes incidental to such property acquisition or state bridge construction.

(b) Bonds issued under this section shall be secured by a pledge of and shall be payable primarily from motor fuel or special fuel taxes, except those defined in Section 9(c) of Article XII, as provided by law, and shall additionally be secured by the full faith and credit of the state.

(c) No bonds shall be issued under this section unless a state fiscal agency, created by law, has made a determination that in no state fiscal year will the debt service requirements of the bonds proposed to be issued and all other bonds secured by the same pledged revenues exceed ninety percent of the pledged revenues available for payment of such debt service requirements, as defined by law. For the purposes of this subsection, the term

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"pledged revenues" means all revenues pledged to the payment of debt service, excluding any pledge of the full faith and credit of the state.

SECTION 18. Laws requiring counties or municipalities to spend funds or limiting their ability to raise revenue or receive state tax revenue.--

(a) No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and unless: funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure; the legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality; the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or the law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.

(b) Except upon approval of each house of the legislature by two-thirds of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of

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2611 doing so would be to reduce the authority that municipalities or
2612 counties have to raise revenues in the aggregate, as such
2613 authority exists on February 1, 1989.

2614 (c) Except upon approval of each house of the legislature
2615 by two-thirds of the membership, the legislature may not enact,
2616 amend, or repeal any general law if the anticipated effect of
2617 doing so would be to reduce the percentage of a state tax shared
2618 with counties and municipalities as an aggregate on February 1,
2619 1989. The provisions of this subsection shall not apply to
2620 enhancements enacted after February 1, 1989, to state tax
2621 sources, or during a fiscal emergency declared in a written joint
2622 proclamation issued by the president of the senate and the
2623 speaker of the house of representatives, or where the legislature
2624 provides additional state-shared revenues which are anticipated
2625 to be sufficient to replace the anticipated aggregate loss of
2626 state-shared revenues resulting from the reduction of the
2627 percentage of the state tax shared with counties and
2628 municipalities, which source of replacement revenues shall be
2629 subject to the same requirements for repeal or modification as
2630 provided herein for a state-shared tax source existing on
2631 February 1, 1989.

2632 (d) Laws adopted to require funding of pension benefits
2633 existing on the effective date of this section; i criminal laws; i
2634 election laws; i the general appropriations act; i special
2635 appropriations acts; i laws reauthorizing but not expanding then-
2636 existing statutory authority; i laws having insignificant fiscal
2637 impact; i and laws creating, modifying, or repealing noncriminal
2638 infractions; i are exempt from the requirements of this section.

2639 (e) The legislature may enact laws to assist in the

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implementation and enforcement of this section.

ARTICLE VIII

LOCAL GOVERNMENT

SECTION 1. Counties.--

(a) POLITICAL SUBDIVISIONS. The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished, or changed by law, with provision for payment or apportionment of the public debt.

(b) COUNTY FUNDS. The care, custody, and method of disbursing county funds shall be provided by general law.

(c) GOVERNMENT. Pursuant to general or special law, a county government may be established by charter which shall be adopted, amended, or repealed only upon vote of the electors of the county in a special election called for that purpose.

(d) COUNTY OFFICERS. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office. When not otherwise provided by county charter or special law approved by vote of the electors, the clerk of the circuit court shall be ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds.

(e) COMMISSIONERS. Except when otherwise provided by

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2669 county charter, the governing body of each county shall be a
2670 board of county commissioners composed of five or seven members
2671 serving staggered terms of four years. After each decennial
2672 census, the board of county commissioners shall divide the county
2673 into districts of contiguous territory as nearly equal in
2674 population as practicable. One commissioner residing in each
2675 district shall be elected as provided by law.

2676 (f) NON-CHARTER GOVERNMENT. Counties not operating under
2677 county charters shall have such power of self-government as is
2678 provided by general or special law. The board of county
2679 commissioners of a county not operating under a charter may
2680 enact, in a manner prescribed by general law, county ordinances
2681 not inconsistent with general or special law, but an ordinance in
2682 conflict with a municipal ordinance shall not be effective within
2683 the municipality to the extent of such conflict.

2684 (g) CHARTER GOVERNMENT. Counties operating under county
2685 charters shall have all powers of local self-government not
2686 inconsistent with general law, or with special law approved by
2687 vote of the electors. The governing body of a county operating
2688 under a charter may enact county ordinances not inconsistent with
2689 general law. The charter shall provide which shall prevail in
2690 the event of conflict between county and municipal ordinances.

2691 (h) TAXES; LIMITATION. Property situate within
2692 municipalities shall not be subject to taxation for services
2693 rendered by the county exclusively for the benefit of the
2694 property or residents in unincorporated areas.

2695 (i) COUNTY ORDINANCES. Each county ordinance shall be
2696 filed with the custodian of state records and shall become
2697 effective at such time thereafter as is provided by general law.

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(j) VIOLATION OF ORDINANCES. Persons violating county ordinances shall be prosecuted and punished as provided by law.

(k) COUNTY SEAT. In every county there shall be a county seat at which shall be located the principal offices and permanent records of all county officers. The county seat may not be moved except as provided by general law. Branch offices for the conduct of county business may be established elsewhere in the county by resolution of the governing body of the county in the manner prescribed by law. No instrument shall be deemed recorded until filed at the county seat, or a branch office designated by the governing body of the county for the recording of instruments, according to law.

SECTION 2. Municipalities.--

(a) ESTABLISHMENT. Municipalities may be established or abolished and their charters amended pursuant to general or special law. When any municipality is abolished, provision shall be made for the protection of its creditors.

(b) POWERS. Municipalities shall have governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. Each municipal legislative body shall be elective.

(c) ANNEXATION. Municipal annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law.

SECTION 3. Consolidation.--The government of a county and the government of one or more municipalities located therein may

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be consolidated into a single government which may exercise any and all powers of the county and the several municipalities. The consolidation plan may be proposed only by special law, which shall become effective if approved by vote of the electors of the county, or of the county and municipalities affected, as may be provided in the plan. Consolidation shall not extend the territorial scope of taxation for the payment of pre-existing debt except to areas whose residents receive a benefit from the facility or service for which the indebtedness was incurred.

SECTION 4. Transfer of powers.--By law or by resolution of the governing bodies of each of the governments affected, any function or power of a county, municipality, or special district may be transferred to or contracted to be performed by another county, municipality, or special district, after approval by vote of the electors of the transferor and approval by vote of the electors of the transferee, or as otherwise provided by law.

SECTION 5. Local option.--

(a) Local option on the legality or prohibition of the sale of intoxicating liquors, wines, or beers shall be preserved to each county. The status of a county with respect thereto shall be changed only by vote of the electors in a special election called upon the petition of twenty-five percent ~~per cent~~ of the electors of the county, and not sooner than two years after an earlier election on the same question. Where legal, the sale of intoxicating liquors, wines, and beers shall be regulated by law.

(b) Each county shall have the authority to require a criminal history records check and a 3-to-5-day ~~3-to-5-day~~ waiting period, excluding weekends and legal holidays, in connection with the sale of any firearm occurring within such

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county. For purposes of this subsection, the term "sale" means the transfer of money or other valuable consideration for any firearm when any part of the transaction is conducted on property to which the public has the right of access. Holders of a concealed weapons permit as prescribed by general law shall not be subject to the provisions of this subsection when purchasing a firearm.

SECTION 6. Schedule to Article VIII.--

(a) This article shall replace all of Article VIII of the Constitution of 1885, as amended, except those sections expressly retained and made a part of this article by reference.

(b) COUNTIES; COUNTY SEATS; MUNICIPALITIES; DISTRICTS. The status of the following items as they exist on the date this article becomes effective is recognized and shall be continued until changed in accordance with law: the counties of the state; their status with respect to the legality of the sale of intoxicating liquors, wines, and beers; the method of selection of county officers; the performance of municipal functions by county officers; the county seats; and the municipalities and special districts of the state, their powers, jurisdiction, and government.

(c) OFFICERS TO CONTINUE IN OFFICE. Every person holding office when this article becomes effective shall continue in office for the remainder of the term if that office is not abolished. If the office is abolished, the incumbent shall be paid adequate compensation, to be fixed by law, for the loss of emoluments for the remainder of the term.

(d) ORDINANCES. Local laws relating only to unincorporated areas of a county on the effective date of this article may be

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2785 amended or repealed by county ordinance.

2786 (e) CONSOLIDATION AND HOME RULE. Article VIII, Sections 9,
2787 10, 11, and 24, of the Constitution of 1885, as amended, shall
2788 remain in full force and effect as to each county affected, as if
2789 this article had not been adopted, until that county shall
2790 expressly adopt a charter or home rule plan pursuant to this
2791 article. All provisions of the Metropolitan Dade County Home
2792 Rule Charter, heretofore or hereafter adopted by the electors of
2793 Dade County pursuant to Article VIII, Section 11, of the
2794 Constitution of 1885, as amended, shall be valid, and any
2795 amendments to such charter shall be valid; provided that the said
2796 provisions of such charter and the said amendments thereto are
2797 authorized under said Article VIII, Section 11, of the
2798 Constitution of 1885, as amended.

2799 (f) DADE COUNTY; POWERS CONFERRED UPON MUNICIPALITIES. To
2800 the extent not inconsistent with the powers of existing
2801 municipalities or general law, the Metropolitan Government of
2802 Dade County may exercise all the powers conferred now or
2803 hereafter by general law upon municipalities.

2804 (g) DELETION OF OBSOLETE SCHEDULE ITEMS. The legislature
2805 shall have power, by joint resolution, to delete from this
2806 article any subsection of this Section 6, including this
2807 subsection, when all events to which the subsection to be deleted
2808 is or could become applicable have occurred. A legislative
2809 determination of fact made as a basis for application of this
2810 subsection shall be subject to judicial review.

ARTICLE IX

EDUCATION

2814 SECTION 1. Public education.--

2815 (a) The education of children is a fundamental value of the
2816 people of the State of Florida. It is, therefore, a paramount
2817 duty of the state to make adequate provision for the education of
2818 all children residing within its borders. Adequate provision
2819 shall be made by law for a uniform, efficient, safe, secure, and
2820 high quality system of free public schools that allows students
2821 to obtain a high quality education and for the establishment,
2822 maintenance, and operation of institutions of higher learning and
2823 other public education programs that the needs of the people may
2824 require. To assure that children attending public schools obtain
2825 a high quality education, the legislature shall make adequate
2826 provision to ensure that, by the beginning of the 2010 school
2827 year, there are a sufficient number of classrooms so that:

2828 (1) The maximum number of students who are assigned to each
2829 teacher who is teaching in public school classrooms for
2830 prekindergarten through grade 3 does not exceed 18 students;

2831 (2) The maximum number of students who are assigned to each
2832 teacher who is teaching in public school classrooms for grades 4
2833 through 8 does not exceed 22 students; and

2834 (3) The maximum number of students who are assigned to each
2835 teacher who is teaching in public school classrooms for grades 9
2836 through 12 does not exceed 25 students.

2837
2838 The class size requirements of this subsection do not apply to
2839 extracurricular classes. Payment of the costs associated with
2840 reducing class size to meet these requirements is the
2841 responsibility of the state and not of local school schools
2842 districts. ~~Beginning with the 2003-2004 fiscal year, The~~

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2843 legislature shall provide sufficient funds to reduce the average
2844 number of students in each classroom by at least two students per
2845 year until the maximum number of students per classroom does not
2846 exceed the requirements of this subsection.

2847 (b) Every four-year-old ~~four-year-old~~ child in Florida
2848 shall be provided by the State a high-quality ~~high-quality~~ pre-
2849 kindergarten learning opportunity in the form of an early
2850 childhood development and education program which shall be
2851 voluntary, high quality, free, and delivered according to
2852 professionally accepted standards. An early childhood development
2853 and education program means an organized program designed to
2854 address and enhance each child's ability to make age-appropriate
2855 ~~age-appropriate~~ progress in an appropriate range of settings in
2856 the development of language and cognitive capabilities and
2857 emotional, social, regulatory, and moral capacities through
2858 education in basic skills and such other skills as the
2859 Legislature may determine to be appropriate.

2860 (c) The early childhood education and development programs
2861 provided by reason of subsection ~~subparagraph~~ (b) shall be
2862 implemented ~~no later than the beginning of the 2005 school year~~
2863 through funds generated in addition to those used for existing
2864 education, health, and development programs. Existing education,
2865 health, and development programs are those funded by the State as
2866 of January 1, 2002, that provided for child or adult education,
2867 health care, or development.

2868 SECTION 2. State board of education.--The state board of
2869 education shall be a body corporate and have such supervision of
2870 the system of free public education as is provided by law. The
2871 state board of education shall consist of seven members appointed

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by the governor to staggered 4-year terms, subject to confirmation by the senate. The state board of education shall appoint the commissioner of education.

SECTION 3. Terms of appointive board members.--Members of any appointive board dealing with education may serve terms in excess of four years as provided by law.

SECTION 4. School districts; school boards.--

(a) Each county shall constitute a school district, ⁺ provided that, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district, there shall be a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law.

(b) The school board shall operate, control, and supervise all free public schools within the school district and determine the rate of school district taxes within the limits prescribed herein. Two or more school districts may operate and finance joint educational programs.

SECTION 5. Superintendent of schools.--In each school district, there shall be a superintendent of schools who shall be elected at the general election in each year the number of which is a multiple of four for a term of four years; or, when provided by resolution of the district school board, or by special law, approved by vote of the electors, the district school superintendent in any school district shall be employed by the district school board as provided by general law. The resolution or special law may be rescinded or repealed by either procedure after four years.

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2901 SECTION 6. State school fund.--The income derived from the
2902 state school fund shall, and the principal of the fund may, be
2903 appropriated, but only to the support and maintenance of free
2904 public schools.

2905 SECTION 7. State University System.--

2906 (a) PURPOSES. In order to achieve excellence through
2907 teaching students, advancing research and providing public
2908 service for the benefit of Florida's citizens, their communities
2909 and economies, the people hereby establish a system of governance
2910 for the state university system of Florida.

2911 (b) STATE UNIVERSITY SYSTEM. There shall be a single state
2912 university system comprised of all public universities. A board
2913 of trustees shall administer each public university and a board
2914 of governors shall govern the state university system.

2915 (c) LOCAL BOARDS OF TRUSTEES. Each local constituent
2916 university shall be administered by a board of trustees
2917 consisting of thirteen members dedicated to the purposes of the
2918 state university system. The board of governors shall establish
2919 the powers and duties of the boards of trustees. Each board of
2920 trustees shall consist of six citizen members appointed by the
2921 governor and five citizen members appointed by the board of
2922 governors. The appointed members shall be confirmed by the senate
2923 and serve staggered terms of five years as provided by law. The
2924 chair of the faculty senate, or the equivalent, and the president
2925 of the student body of the university shall also be members.

2926 (d) STATEWIDE BOARD OF GOVERNORS. The board of governors
2927 shall be a body corporate consisting of seventeen members. The
2928 board shall operate, regulate, control, and be fully responsible
2929 for the management of the whole university system. These

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responsibilities shall include, but not be limited to, defining the distinctive mission of each constituent university and its articulation with free public schools and community colleges, ensuring the well-planned coordination and operation of the system, and avoiding wasteful duplication of facilities or programs. The board's management shall be subject to the powers of the legislature to appropriate for the expenditure of funds, and the board shall account for such expenditures as provided by law. The governor shall appoint to the board fourteen citizens dedicated to the purposes of the state university system. The appointed members shall be confirmed by the senate and serve staggered terms of seven years as provided by law. The commissioner of education, the chair of the advisory council of faculty senates, or the equivalent, and the president of the Florida student association, or the equivalent, shall also be members of the board.

ARTICLE X
MISCELLANEOUS

SECTION 1. Amendments to United States Constitution.--The legislature shall not take action on any proposed amendment to the constitution of the United States unless a majority of the members thereof have been elected after the proposed amendment has been submitted for ratification.

SECTION 2. Militia.--

(a) The militia shall be composed of all able-bodied ~~ablebodied~~ inhabitants of the state who are or have declared their intention to become citizens of the United States, ~~and~~ and no person because of religious creed or opinion shall be exempted

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from military duty except upon conditions provided by law.

(b) The organizing, equipping, housing, maintaining, and disciplining of the militia, and the safekeeping of public arms may be provided for by law.

(c) The governor shall appoint all commissioned officers of the militia, including an adjutant general who shall be chief of staff. The appointment of all general officers shall be subject to confirmation by the senate.

(d) The qualifications of personnel and officers of the federally recognized national guard, including the adjutant general, and the grounds and proceedings for their discipline and removal shall conform to the appropriate United States Army or Air Force regulations and usages.

SECTION 3. Vacancy in office.--Vacancy in office shall occur upon the creation of an office, upon the death, removal from office, or resignation of the incumbent or the incumbent's succession to another office, unexplained absence for sixty consecutive days, or failure to maintain the residence required when elected or appointed, and upon failure of one elected or appointed to office to qualify within thirty days from the commencement of the term.

SECTION 4. Homestead; exemptions.--

(a) There shall be exempt from forced sale under process of any court, and no judgment, decree, or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement, or repair thereof, or obligations contracted for house, field, or other labor performed on the realty, the following property owned by a natural person:

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(1) A homestead, if located outside a municipality, to the extent of one hundred sixty acres of contiguous land and improvements thereon, which shall not be reduced without the owner's consent by reason of subsequent inclusion in a municipality; or if located within a municipality, to the extent of one-half acre of contiguous land, upon which the exemption shall be limited to the residence of the owner or the owner's family;

(2) Personal property to the value of one thousand dollars.

(b) These exemptions shall inure to the surviving spouse or heirs of the owner.

(c) The homestead shall not be subject to devise if the owner is survived by spouse or minor child, except the homestead may be devised to the owner's spouse if there be no minor child.

The owner of homestead real estate, joined by the spouse if married, may alienate the homestead by mortgage, sale, or gift and, if married, may by deed transfer the title to an estate by the entirety with the spouse. If the owner or spouse is incompetent, the method of alienation or encumbrance shall be as provided by law.

SECTION 5. Coverture and property.--There shall be no distinction between married women and married men in the holding, control, disposition, or encumbering of their property, both real and personal; except that dower or curtesy may be established and regulated by law.

SECTION 6. Eminent domain.--

(a) No private property shall be taken except for a public purpose and with full compensation therefor paid to each owner or secured by deposit in the registry of the court and available to

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the owner.

(b) Provision may be made by law for the taking of easements, by like proceedings, for the drainage of the land of one person over or through the land of another.

SECTION 7. Lotteries.--Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state.

SECTION 8. Census.--

(a) Each decennial census of the state taken by the United States shall be an official census of the state.

(b) Each decennial census, for the purpose of classifications based upon population, shall become effective on the thirtieth day after the final adjournment of the regular session of the legislature convened next after certification of the census.

SECTION 9. Repeal of criminal statutes.--Repeal or amendment of a criminal statute shall not affect prosecution or punishment for any crime previously committed.

SECTION 10. Felony; definition.--The term "felony," as used herein and in the laws of this state, shall mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or by imprisonment in the state penitentiary.

SECTION 11. Sovereignty lands.--The title to lands under navigable waters, within the boundaries of the state, which have not been alienated, including beaches below mean high water lines, is held by the state, by virtue of its sovereignty, in trust for all the people. Sale of such lands may be authorized by law, but only when in the public interest. Private use of

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portions of such lands may be authorized by law, but only when not contrary to the public interest.

SECTION 12. Rules of construction.--Unless qualified in the text, the following rules of construction shall apply to this constitution.

(a) "Herein" refers to the entire constitution.

(b) The singular includes the plural.

(c) The masculine includes the feminine.

(d) "Vote of the electors" means the vote of the majority of those voting on the matter in an election, general or special, in which those participating are limited to the electors of the governmental unit referred to in the text.

(e) Vote or other action of a legislative house or other governmental body means the vote or action of a majority or other specified percentage of those members voting on the matter. "Of the membership" means "of all members thereof."

(f) The terms "judicial office," "justices," and "judges" shall not include judges of courts established solely for the trial of violations of ordinances.

(g) "Special law" means a special or local law.

(h) Titles and subtitles shall not be used in construction.

SECTION 13. Suits against the state.--Provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating.

SECTION 14. State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not, after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has

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3075 made or concurrently makes provision for the funding of the
3076 increase in benefits on a sound actuarial basis.

3077 SECTION 15. State operated lotteries.--

3078 (a) Lotteries may be operated by the state.

3079 (b) If any subsection or subsections of the amendment to
3080 the Florida Constitution are held unconstitutional for containing
3081 more than one subject, this amendment shall be limited to
3082 subsection (a) above.

3083 (c) This amendment shall be implemented as follows:

3084 (1) Schedule--On the effective date of this amendment, the
3085 lotteries shall be known as the Florida Education Lotteries. Net
3086 proceeds derived from the lotteries shall be deposited to a state
3087 trust fund, to be designated The State Education Lotteries Trust
3088 Fund, to be appropriated by the Legislature. The schedule may be
3089 amended by general law.

3090 SECTION 16. Limiting marine net fishing.--

3091 (a) The marine resources of the State of Florida belong to
3092 all of the people of the state and should be conserved and
3093 managed for the benefit of the state, its people, and future
3094 generations. To this end, the people hereby enact limitations on
3095 marine net fishing in Florida waters to protect saltwater
3096 finfish, shellfish, and other marine animals from unnecessary
3097 killing, overfishing, and waste.

3098 (b) For the purpose of catching or taking any saltwater
3099 finfish, shellfish, or other marine animals in Florida waters:

3100 (1) No gill nets or other entangling nets shall be used in
3101 any Florida waters; and

3102 (2) In addition to the prohibition set forth in paragraph

3103 (1), no other type of net containing more than 500 square feet of

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3104 mesh area shall be used in nearshore and inshore Florida waters.
 3105 Additionally, no more than two such nets, which shall not be
 3106 connected, shall be used from any vessel, and no person not on a
 3107 vessel shall use more than one such net in nearshore and inshore
 3108 Florida waters.

3109 (c) For purposes of this section:

3110 (1) "Gill net" means one or more walls of netting which
 3111 captures saltwater finfish by ensnaring or entangling them in the
 3112 meshes of the net by the gills, and "entangling net" means a
 3113 drift net, trammell net, stab net, or any other net which
 3114 captures saltwater finfish, shellfish, or other marine animals by
 3115 causing all or part of heads, fins, legs, or other body parts to
 3116 become entangled or ensnared in the meshes of the net, but a
 3117 hand-thrown ~~hand-thrown~~ cast net is not a gill net or an
 3118 entangling net;

3119 (2) "Mesh area" of a net means the total area of netting
 3120 with the meshes open to comprise the maximum square footage. The
 3121 square footage shall be calculated using standard mathematical
 3122 formulas for geometric shapes. Seines and other rectangular nets
 3123 shall be calculated using the maximum length and maximum width of
 3124 the netting. Trawls and other bag type nets shall be calculated
 3125 as a cone using the maximum circumference of the net mouth to
 3126 derive the radius, and the maximum length from the net mouth to
 3127 the tail end of the net to derive the slant height. Calculations
 3128 for any other nets or combination type nets shall be based on the
 3129 shapes of the individual components;

3130 (3) "Coastline" means the territorial sea base line for the
 3131 State of Florida established pursuant to the laws of the United
 3132 States of America;

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(4) "Florida waters" means the waters of the Atlantic Ocean, the Gulf of Mexico, the Straits of Florida, and any other bodies of water under the jurisdiction of the State of Florida, whether coastal, intracoastal, or inland, and any part thereof; and

(5) "Nearshore and inshore Florida waters" means all Florida waters inside a line three miles seaward of the coastline along the Gulf of Mexico and inside a line one mile seaward of the coastline along the Atlantic Ocean.

(d) This section shall not apply to the use of nets for scientific research or governmental purposes.

(e) Persons violating this section shall be prosecuted and punished pursuant to the penalties provided in s. section 370.021(2)(a), (b), (c) 6. and 7., and (e), Florida Statutes (1991), unless and until the legislature enacts more stringent penalties for violations hereof. On and after the effective date of this section, law enforcement officers in the state are authorized to enforce the provisions of this section in the same manner and authority as if a violation of this section constituted a violation of chapter 370, Florida Statutes (1991).

(f) It is the intent of this section that implementing legislation is not required for enforcing any violations hereof, but nothing in this section prohibits the establishment by law or pursuant to law of more restrictions on the use of nets for the purpose of catching or taking any saltwater finfish, shellfish, or other marine animals.

(g) If any portion of this section is held invalid for any reason, the remaining portion of this section, to the fullest extent possible, shall be severed from the void portion and given

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the fullest possible force and application.

(h) This section shall take effect on the July 1 next occurring after approval hereof by vote of the electors.

SECTION 17. Everglades Trust Fund.--

(a) There is hereby established the Everglades Trust Fund, which shall not be subject to termination pursuant to Article III, Section 19(f). The purpose of the Everglades Trust Fund is to make funds available to assist in conservation and protection of natural resources and abatement of water pollution in the Everglades Protection Area and the Everglades Agricultural Area. The trust fund shall be administered by the South Florida Water Management District, or its successor agency, consistent with statutory law.

(b) The Everglades Trust Fund may receive funds from any source, including gifts from individuals, corporations, or other entities; funds from general revenue as determined by the Legislature; and any other funds so designated by the Legislature, by the United States Congress, or by any other governmental entity.

(c) Funds deposited to the Everglades Trust Fund shall be expended for purposes of conservation and protection of natural resources and abatement of water pollution in the Everglades Protection Area and Everglades Agricultural Area.

(d) For purposes of this subsection, the terms "Everglades Protection Area," "Everglades Agricultural Area," and "South Florida Water Management District" shall have the meanings as defined in statutes in effect on January 1, 1996.

SECTION 18. Disposition of conservation lands.--The fee interest in real property held by an entity of the state and

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designated for natural resources conservation purposes as provided by general law shall be managed for the benefit of the citizens of this state and may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a vote of two-thirds of the governing board.

SECTION 19. High speed ground transportation system.--To reduce traffic congestion and provide alternatives to the traveling public, it is hereby declared to be in the public interest that a high speed ground transportation system consisting of a monorail, fixed guideway or magnetic levitation system, capable of speeds in excess of 120 miles per hour, be developed and operated in the State of Florida to provide high speed ground transportation by innovative, efficient and effective technologies consisting of dedicated rails or guideways separated from motor vehicular traffic that will link the five largest urban areas of the State as determined by the Legislature and provide for access to existing air and ground transportation facilities and services. The Legislature, the Cabinet and the Governor are hereby directed to proceed with the development of such a system by the State and/or by a private entity pursuant to state approval and authorization, including the acquisition of right-of-way, the financing of design and construction of the system, and the operation of the system, as provided by specific appropriation and by law, with construction to begin on or before November 1, 2003.

SECTION 20. Workplaces without tobacco smoke.--

(a) PROHIBITION. As a Florida health initiative to protect people from the health hazards of second-hand tobacco smoke,

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tobacco smoking is prohibited in enclosed indoor workplaces.

(b) EXCEPTIONS. As further explained in the definitions below, tobacco smoking may be permitted in private residences whenever they are not being used commercially to provide child care, adult care, or health care, or any combination thereof; and further may be permitted in retail tobacco shops, designated smoking guest rooms at hotels and other public lodging establishments; and stand-alone bars. However, nothing in this section or in its implementing legislation or regulations shall prohibit the owner, lessee, or other person in control of the use of an enclosed indoor workplace from further prohibiting or limiting smoking therein.

(c) DEFINITIONS. For purposes of this section, the following words and terms shall have the stated meanings:

(1) "Smoking" means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco product.

(2) "Second-hand smoke," also known as environmental tobacco smoke (ETS), means smoke emitted from lighted, smoldering, or burning tobacco when the smoker is not inhaling; smoke emitted at the mouthpiece during puff drawing; and smoke exhaled by the smoker.

(3) "Work" means any person's providing any employment or employment-type service for or at the request of another individual or individuals or any public or private entity, whether for compensation or not, whether full or part-time, whether legally or not. "Work" includes, without limitation, any such service performed by an employee, independent contractor, agent, partner, proprietor, manager, officer, director,

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apprentice, trainee, associate, servant, volunteer, and the like.

(4) "Enclosed indoor workplace" means any place where one or more persons engages in work, and which place is predominantly or totally bounded on all sides and above by physical barriers, regardless of whether such barriers consist of or include uncovered openings, screened or otherwise partially covered openings; or open or closed windows, жалousies, doors, or the like. This section applies to all such enclosed indoor workplaces without regard to whether work is occurring at any given time.

(5) "Commercial" use of a private residence means any time during which the owner, lessee, or other person occupying or controlling the use of the private residence is furnishing in the private residence, or causing or allowing to be furnished in the private residence, child care, adult care, or health care, or any combination thereof, and receiving or expecting to receive compensation therefor.

(6) "Retail tobacco shop" means any enclosed indoor workplace dedicated to or predominantly for the retail sale of tobacco, tobacco products, and accessories for such products, in which the sale of other products or services is merely incidental.

(7) "Designated smoking guest rooms at public lodging establishments" means the sleeping rooms and directly associated private areas, such as bathrooms, living rooms, and kitchen areas, if any, rented to guests for their exclusive transient occupancy in public lodging establishments including hotels, motels, resort condominiums, transient apartments, transient lodging establishments, rooming houses, boarding houses, resort dwellings, bed and breakfast inns, and the like; and designated

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by the person or persons having management authority over such public lodging establishment as rooms in which smoking may be permitted.

(8) "Stand-alone bar" means any place of business devoted during any time of operation predominantly or totally to serving alcoholic beverages, intoxicating beverages, or intoxicating liquors, or any combination thereof, for consumption on the licensed premises; in which the serving of food, if any, is merely incidental to the consumption of any such beverage; and that is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace including any business for which the sale of food or any other product or service is more than an incidental source of gross revenue.

(d) LEGISLATION. In the next regular legislative session occurring after voter approval of this amendment, the Florida Legislature shall adopt legislation to implement this amendment in a manner consistent with its broad purpose and stated terms, and having an effective date no later than July 1 of the year following voter approval. Such legislation shall include, without limitation, civil penalties for violations of this section; provisions for administrative enforcement; and the requirement and authorization of agency rules for implementation and enforcement. Nothing herein shall preclude the Legislature from enacting any law constituting or allowing a more restrictive regulation of tobacco smoking than is provided in this section.

SECTION 21. Limiting cruel and inhumane confinement of pigs during pregnancy.--Inhumane treatment of animals is a concern of Florida citizens. To prevent cruelty to certain animals and as

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recommended by The Humane Society of the United States, the people of the State of Florida hereby limit the cruel and inhumane confinement of pigs during pregnancy as provided herein.

(a) It shall be unlawful for any person to confine a pig during pregnancy in an enclosure, or to tether a pig during pregnancy, on a farm in such a way that she is prevented from turning around freely.

(b) This section shall not apply:

(1) When a pig is undergoing an examination, test, treatment, or operation carried out for veterinary purposes, provided the period during which the animal is confined or tethered is not longer than reasonably necessary.

(2) During the prebirthing period.

(c) For purposes of this section:

(1) "Enclosure" means any cage, crate, or other enclosure in which a pig is kept for all or the majority of any day, including what is commonly described as the "gestation crate."

(2) "Farm" means the land, buildings, support facilities, and other appurtenances used in the production of animals for food or fiber.

(3) "Person" means any natural person, corporation, and/or business entity.

(4) "Pig" means any animal of the porcine species.

(5) "Turning around freely" means turning around without having to touch any side of the pig's enclosure.

(6) "Prebirthing period" means the seven day period prior to a pig's expected date of giving birth.

(d) A person who violates this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s.

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3336 775.082(4)(a), Florida Statutes (1999), as amended, or by a fine
 3337 of not more than \$5000, or by both imprisonment and a fine,
 3338 unless and until the legislature enacts more stringent penalties
 3339 for violations hereof. On and after the effective date of this
 3340 section, law enforcement officers in the state are authorized to
 3341 enforce the provisions of this section in the same manner and
 3342 authority as if a violation of this section constituted a
 3343 violation of s. Section ~~828.13~~, Florida Statutes (1999). The
 3344 confinement or tethering of each pig shall constitute a separate
 3345 offense. The knowledge or acts of agents and employees of a
 3346 person in regard to a pig owned, farmed, or in the custody of a
 3347 person, shall be held to be the knowledge or act of such person.

3348 (e) It is the intent of this section that implementing
 3349 legislation is not required for enforcing any violations hereof.

3350 (f) If any portion of this section is held invalid for any
 3351 reason, the remaining portion of this section, to the fullest
 3352 extent possible, shall be severed from the void portion and given
 3353 the fullest possible force and application.

3354 (g) This section shall take effect six years after approval
 3355 by the electors.

3356 SECTION 22. Parental notice of termination of a minor's
 3357 pregnancy.--The Legislature shall not limit or deny the privacy
 3358 right guaranteed to a minor under the United States Constitution
 3359 as interpreted by the United States Supreme Court.
 3360 Notwithstanding a minor's right of privacy provided in Section 23
 3361 of Article I, the Legislature is authorized to require by general
 3362 law for notification to a parent or guardian of a minor before
 3363 the termination of the minor's pregnancy. The Legislature shall
 3364 provide exceptions to such requirement for notification and shall

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create a process for judicial waiver of the notification.

SECTION 23. Slot machines.--

(a) After voter approval of this constitutional amendment, the governing bodies of Miami-Dade and Broward Counties each may hold a county-wide referendum in their respective counties on whether to authorize slot machines within existing, licensed pari-mutuel ~~parimutuel~~ facilities (thoroughbred and harness racing, greyhound racing, and jai-alai) that have conducted live racing or games in that county during each of the last two calendar years before the effective date of this amendment. If the voters of such county approve the referendum question by majority vote, slot machines shall be authorized in such parimutuel facilities. If the voters of such county by majority vote disapprove the referendum question, slot machines shall not be so authorized, and the question shall not be presented in another referendum in that county for at least two years.

(b) In the next regular Legislative session occurring after voter approval of this constitutional amendment, the Legislature shall adopt legislation implementing this section and having an effective date no later than July 1 of the year following voter approval of this amendment. Such legislation shall authorize agency rules for implementation, and may include provisions for the licensure and regulation of slot machines. The Legislature may tax slot machine revenues, and any such taxes must supplement public education funding statewide.

(c) If any part of this section is held invalid for any reason, the remaining portion or portions shall be severed from the invalid portion and given the fullest possible force and effect.

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(d) This amendment shall become effective when approved by vote of the electors of the state.

SECTION 24. Florida minimum wage.--

(a) PUBLIC POLICY. All working Floridians are entitled to be paid a minimum wage that is sufficient to provide a decent and healthy life for them and their families, that protects their employers from unfair low-wage competition, and that does not force them to rely on taxpayer-funded public services in order to avoid economic hardship.

(b) DEFINITIONS. As used in this amendment, the terms "employer," "employee," and "wage" shall have the meanings established under the federal Fair Labor Standards Act (FLSA) and its implementing regulations.

(c) MINIMUM WAGE. Employers shall pay employees wages no less than the minimum wage for all hours worked in Florida. Six months after enactment, the minimum wage shall be established at an hourly rate of \$6.15. On September 30th of that year and on each following September 30th, the state Agency for Workforce Innovation shall calculate an adjusted minimum wage rate by increasing the current minimum wage rate by the rate of inflation during the twelve months prior to each September 1st using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index as calculated by the United States Department of Labor. Each adjusted minimum wage rate calculated shall be published and take effect on the following January 1st. For tipped employees meeting eligibility requirements for the tip credit under the FLSA, employers may credit towards satisfaction of the minimum wage tips up to the amount of the allowable FLSA tip credit in 2003.

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3423 (d) RETALIATION PROHIBITED. It shall be unlawful for an
3424 employer or any other party to discriminate in any manner or take
3425 adverse action against any person in retaliation for exercising
3426 rights protected under this amendment. Rights protected under
3427 this amendment include, but are not limited to, the right to file
3428 a complaint or inform any person about any party's alleged
3429 noncompliance with this amendment, and the right to inform any
3430 person of his or her potential rights under this amendment and to
3431 assist him or her in asserting such rights.

3432 (e) ENFORCEMENT. Persons aggrieved by a violation of this
3433 amendment may bring a civil action in a court of competent
3434 jurisdiction against an employer or person violating this
3435 amendment and, upon prevailing, shall recover the full amount of
3436 any back wages unlawfully withheld plus the same amount as
3437 liquidated damages, and shall be awarded reasonable attorney's
3438 fees and costs. In addition, they shall be entitled to such legal
3439 or equitable relief as may be appropriate to remedy the violation
3440 including, without limitation, reinstatement in employment and/or
3441 injunctive relief. Any employer or other person found liable for
3442 willfully violating this amendment shall also be subject to a
3443 fine payable to the state in the amount of \$1000.00 for each
3444 violation. The state attorney general or other official
3445 designated by the state legislature may also bring a civil action
3446 to enforce this amendment. Actions to enforce this amendment
3447 shall be subject to a statute of limitations of four years or, in
3448 the case of willful violations, five years. Such actions may be
3449 brought as a class action pursuant to Rule 1.220 of the Florida
3450 Rules of Civil Procedure.

3451 (f) ADDITIONAL LEGISLATION, IMPLEMENTATION, AND

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CONSTRUCTION. Implementing legislation is not required in order to enforce this amendment. The state legislature may by statute establish additional remedies or fines for violations of this amendment, raise the applicable minimum wage rate, reduce the tip credit, or extend coverage of the minimum wage to employers or employees not covered by this amendment. The state legislature may by statute or the state Agency for Workforce Innovation may by regulation adopt any measures appropriate for the implementation of this amendment. This amendment provides for payment of a minimum wage and shall not be construed to preempt or otherwise limit the authority of the state legislature or any other public body to adopt or enforce any other law, regulation, requirement, policy, or standard that provides for payment of higher or supplemental wages or benefits, or that extends such protections to employers or employees not covered by this amendment. It is intended that case law, administrative interpretations, and other guiding standards developed under the federal FLSA shall guide the construction of this amendment and any implementing statutes or regulations.

(g) SEVERABILITY. If any part of this amendment, or the application of this amendment to any person or circumstance, is held invalid, the remainder of this amendment, including the application of such part to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the parts of this amendment are severable.

SECTION 25. Patients' right to know about adverse medical incidents.--

(a) In addition to any other similar rights provided herein

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3481 or by general law, patients have a right to have access to any
3482 records made or received in the course of business by a health
3483 care facility or provider relating to any adverse medical
3484 incident.

3485 (b) In providing such access, the identity of patients
3486 involved in the incidents shall not be disclosed, and any privacy
3487 restrictions imposed by federal law shall be maintained.

3488 (c) For purposes of this section, the following terms have
3489 the following meanings:

3490 (1) The phrases "health care facility" and "health care
3491 provider" have the meaning given in general law related to a
3492 patient's rights and responsibilities.

3493 (2) The term "patient" means an individual who has sought,
3494 is seeking, is undergoing, or has undergone care or treatment in
3495 a health care facility or by a health care provider.

3496 (3) The phrase "adverse medical incident" means medical
3497 negligence, intentional misconduct, and any other act, neglect,
3498 or default of a health care facility or health care provider that
3499 caused or could have caused injury to or death of a patient,
3500 including, but not limited to, those incidents that are required
3501 by state or federal law to be reported to any governmental agency
3502 or body, and incidents that are reported to or reviewed by any
3503 health care facility peer review, risk management, quality
3504 assurance, credentials, or similar committee, or any
3505 representative of any such committees.

3506 (4) The phrase "have access to any records" means, in
3507 addition to any other procedure for producing such records
3508 provided by general law, making the records available for
3509 inspection and copying upon formal or informal request by the

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patient or a representative of the patient, provided that current records which have been made publicly available by publication or on the Internet may be "provided" by reference to the location at which the records are publicly available.

SECTION 26. Prohibition of medical license after repeated medical malpractice.--

(a) No person who has been found to have committed three or more incidents of medical malpractice shall be licensed or continue to be licensed by the State of Florida to provide health care services as a medical doctor.

(b) For purposes of this section, the following terms have the following meanings:

(1) The phrase "medical malpractice" means both the failure to practice medicine in Florida with that level of care, skill, and treatment recognized in general law related to health care providers' licensure, and any similar wrongful act, neglect, or default in other states or countries which, if committed in Florida, would have been considered medical malpractice.

(2) The phrase "found to have committed" means that the malpractice has been found in a final judgment of a court of law, final administrative agency decision, or decision of binding arbitration.

ARTICLE XI

AMENDMENTS

SECTION 1. Proposal by legislature.--Amendment of a section or revision of one or more articles, or the whole, of this constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the legislature.

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The full text of the joint resolution and the vote of each member voting shall be entered on the journal of each house.

SECTION 2. Revision commission.--

(a) Within thirty days before the convening of the 2017 regular session of the legislature, and each twentieth year thereafter, there shall be established a constitution revision commission composed of the following thirty-seven members:

(1) The attorney general of the state;

(2) Fifteen members selected by the governor;

(3) Nine members selected by the speaker of the house of representatives and nine members selected by the president of the senate; and

(4) Three members selected by the chief justice of the supreme court of Florida with the advice of the justices.

(b) The governor shall designate one member of the commission as its chair. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments.

(c) Each constitution revision commission shall convene at the call of its chair, adopt its rules of procedure, examine the constitution of the state, hold public hearings, and, not later than one hundred eighty days prior to the next general election, file with the custodian of state records its proposal, if any, of a revision of this constitution or any part of it.

SECTION 3. Initiative.--The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and

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matter directly connected therewith. It may be invoked by filing with the custodian of state records a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen.

SECTION 4. Constitutional convention.--

(a) The power to call a convention to consider a revision of the entire constitution is reserved to the people. It may be invoked by filing with the custodian of state records a petition, containing a declaration that a constitutional convention is desired, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to fifteen per cent of the votes cast in each such district respectively and in the state as a whole in the last preceding election of presidential electors.

(b) At the next general election held more than ninety days after the filing of such petition, there shall be submitted to the electors of the state the question: "Shall a constitutional convention be held?" If a majority voting on the question votes in the affirmative, at the next succeeding general election there shall be elected from each representative district a member of a constitutional convention. On the twenty-first day following that election, the convention shall sit at the capital, elect officers, adopt rules of procedure, judge the election of its membership, and fix a time and place for its future meetings. Not later than ninety days before the next succeeding general

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election, the convention shall cause to be filed with the custodian of state records any revision of this constitution proposed by it.

SECTION 5. Amendment or revision election.--

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution or report of revision commission, constitutional convention, or taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.

(b) A proposed amendment or revision of this constitution, or any part of it, by initiative shall be submitted to the electors at the general election provided the initiative petition is filed with the custodian of state records no later than February 1 of the year in which the general election is held.

(c) The legislature shall provide by general law, prior to the holding of an election pursuant to this section, for the provision of a statement to the public regarding the probable financial impact of any amendment proposed by initiative pursuant to section 3.

(d) Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be

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published in one newspaper of general circulation in each county in which a newspaper is published.

(e) If the proposed amendment or revision is approved by vote of the electors, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

SECTION 6. Taxation and budget reform commission.--

(a) Beginning in 2007 and each twentieth year thereafter, there shall be established a taxation and budget reform commission composed of the following members:

(1) Eleven members selected by the governor, none of whom shall be a member of the legislature at the time of appointment.

(2) Seven members selected by the speaker of the house of representatives and seven members selected by the president of the senate, none of whom shall be a member of the legislature at the time of appointment.

(3) Four non-voting ex officio members, all of whom shall be members of the legislature at the time of appointment. Two of these members, one of whom shall be a member of the minority party in the house of representatives, shall be selected by the speaker of the house of representatives, and two of these members, one of whom shall be a member of the minority party in the senate, shall be selected by the president of the senate.

(b) Vacancies in the membership of the commission shall be filled in the same manner as the original appointments.

(c) At its initial meeting, the members of the commission shall elect a member who is not a member of the legislature to serve as chair and the commission shall adopt its rules of

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3655 procedure. Thereafter, the commission shall convene at the call
3656 of the chair. An affirmative vote of two thirds of the full
3657 commission shall be necessary for any revision of this
3658 constitution or any part of it to be proposed by the commission.

3659 (d) The commission shall examine the state budgetary
3660 process, the revenue needs and expenditure processes of the
3661 state, the appropriateness of the tax structure of the state, and
3662 governmental productivity and efficiency; review policy as it
3663 relates to the ability of state and local government to tax and
3664 adequately fund governmental operations and capital facilities
3665 required to meet the state's needs during the next twenty year
3666 period; determine methods favored by the citizens of the state to
3667 fund the needs of the state, including alternative methods for
3668 raising sufficient revenues for the needs of the state; determine
3669 measures that could be instituted to effectively gather funds
3670 from existing tax sources; examine constitutional limitations on
3671 taxation and expenditures at the state and local level; and
3672 review the state's comprehensive planning, budgeting, and needs
3673 assessment processes to determine whether the resulting
3674 information adequately supports a strategic decisionmaking
3675 process.

3676 (e) The commission shall hold public hearings as it deems
3677 necessary to carry out its responsibilities under this section.
3678 The commission shall issue a report of the results of the review
3679 carried out, and propose to the legislature any recommended
3680 statutory changes related to the taxation or budgetary laws of
3681 the state. Not later than one hundred eighty days prior to the
3682 general election in the second year following the year in which
3683 the commission is established, the commission shall file with the

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custodian of state records its proposal, if any, of a revision of this constitution or any part of it dealing with taxation or the state budgetary process.

SECTION 7. Tax or fee limitation.--Notwithstanding Article X, Section 12(d) of this constitution, no new state tax or fee shall be imposed on or after November 8, 1994, by any amendment to this constitution unless the proposed amendment is approved by not fewer than two-thirds of the voters voting in the election in which such proposed amendment is considered. For purposes of this section, the phrase "new state tax or fee" shall mean any tax or fee which would produce revenue subject to lump sum or other appropriation by the Legislature, either for the state general revenue fund or any trust fund, which tax or fee is not in effect on November 7, 1994, including without limitation such taxes and fees as are the subject of proposed constitutional amendments appearing on the ballot on November 8, 1994. This section shall apply to proposed constitutional amendments relating to state taxes or fees which appear on the November 8, 1994, ballot, or later ballots, and any such proposed amendment which fails to gain the two-thirds vote required hereby shall be null, void, and without effect.

ARTICLE XII

SCHEDULE

SECTION 1. Constitution of 1885 superseded.--Articles I through IV, VII, and IX through XX of the Constitution of Florida adopted in 1885, as amended from time to time, are superseded by this revision except those sections expressly retained and made a part of this revision by reference.

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SECTION 2. Property taxes; millages.--Tax millages authorized in counties, municipalities, and special districts, on the date this revision becomes effective, may be continued until reduced by law.

~~SECTION 3. Officers to continue in office. Every person holding office when this revision becomes effective shall continue in office for the remainder of the term if that office is not abolished. If the office is abolished the incumbent shall be paid adequate compensation, to be fixed by law, for the loss of emoluments for the remainder of the term.~~

SECTION 4. State commissioner of education.--The state superintendent of public instruction in office on the effective date of this revision shall become and, for the remainder of the term being served, shall be the commissioner of education.

SECTION 5. Superintendent of schools.--

(a) On the effective date of this revision the county superintendent of public instruction of each county shall become and, for the remainder of the term being served, shall be the superintendent of schools of that district.

(b) The method of selection of the county superintendent of public instruction of each county, as provided by or under the Constitution of 1885, as amended, shall apply to the selection of the district superintendent of schools until changed as herein provided.

SECTION 6. Laws preserved.--

(a) All laws in effect upon the adoption of this revision, to the extent not inconsistent with it, shall remain in force until they expire by their terms or are repealed.

(b) All statutes which, under the Constitution of 1885, as

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amended, apply to the state superintendent of public instruction and those which apply to the county superintendent of public instruction shall under this revision apply, respectively, to the state commissioner of education and the district superintendent of schools.

SECTION 7. Rights reserved.--

(a) All actions, rights of action, claims, contracts, and obligations of individuals, corporations, and public bodies or agencies existing on the date this revision becomes effective shall continue to be valid as if this revision had not been adopted. All taxes, penalties, fines and forfeitures owing to the state under the Constitution of 1885, as amended, shall inure to the state under this revision, and all sentences as punishment for crime shall be executed according to their terms.

(b) This revision shall not be retroactive so as to create any right or liability which did not exist under the Constitution of 1885, as amended, based upon matters occurring prior to the adoption of this revision.

SECTION 8. Public debts recognized.--All bonds, revenue certificates, revenue bonds, and tax anticipation certificates issued pursuant to the Constitution of 1885, as amended by the state, any agency, political subdivision, or public corporation of the state shall remain in full force and effect and shall be secured by the same sources of revenue as before the adoption of this revision, and, to the extent necessary to effectuate this section, the applicable provisions of the Constitution of 1885, as amended, are retained as a part of this revision until payment in full of these public securities.

SECTION 9. Bonds.--

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3771 (a) ADDITIONAL SECURITIES.

3772 (1) Article IX, Section 17, of the Constitution of 1885, as
3773 amended, as it existed immediately before this Constitution, as
3774 revised in 1968, became effective, is adopted by this reference
3775 as a part of this revision as completely as though incorporated
3776 herein verbatim, except revenue bonds, revenue certificates, or
3777 other evidences of indebtedness hereafter issued thereunder may
3778 be issued by the agency of the state so authorized by law.

3779 (2) That portion of Article XII, Section 9(a) ~~9, Subsection~~
3780 ~~(a)~~ of this Constitution, as amended, which by reference adopted
3781 Article XII, Section 19 of the Constitution of 1885, as amended,
3782 as the same existed immediately before the effective date of this
3783 amendment is adopted by this reference as part of this revision
3784 as completely as though incorporated herein verbatim, for the
3785 purpose of providing that after the effective date of this
3786 amendment all of the proceeds of the revenues derived from the
3787 gross receipts taxes, as therein defined, collected in each year
3788 shall be applied as provided therein to the extent necessary to
3789 comply with all obligations to or for the benefit of holders of
3790 bonds or certificates issued before the effective date of this
3791 amendment or any refundings thereof which are secured by such
3792 gross receipts taxes. No bonds or other obligations may be
3793 issued pursuant to the provisions of Article XII, Section 19, of
3794 the Constitution of 1885, as amended, but this provision shall
3795 not be construed to prevent the refunding of any such outstanding
3796 bonds or obligations pursuant to the provisions of this
3797 subsection (a) (2).

3798 Subject to the requirements of the first paragraph of this
3799 subsection (a) (2), beginning July 1, 1975, all of the proceeds of

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the revenues derived from the gross receipts taxes collected from every person, including municipalities, as provided and levied pursuant to the provisions of chapter 203, Florida Statutes, as such chapter is amended from time to time, shall, as collected, be placed in a trust fund to be known as the "public education capital outlay and debt service trust fund" in the state treasury (hereinafter referred to as "capital outlay fund"), and used only as provided herein.

The capital outlay fund shall be administered by the state board of education as created and constituted by Section 2, ~~of~~ Article IX of the Constitution of Florida as revised in 1968 (hereinafter referred to as "state board"), or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties, and functions of the state board, including the powers, duties, and functions of the state board provided in this subsection (a)(2). The state board shall be a body corporate and shall have all the powers provided herein in addition to all other constitutional and statutory powers related to the purposes of this subsection (a)(2) heretofore or hereafter conferred by law upon the state board, or its predecessor created by the Constitution of 1885, as amended.

State bonds pledging the full faith and credit of the state may be issued, without a vote of the electors, by the state board pursuant to law to finance or refinance capital projects theretofore authorized by the legislature, and any purposes appurtenant or incidental thereto, for the state system of public education provided for in Section 1, ~~of~~ Article IX of this Constitution (hereinafter referred to as "state system"), including but not limited to institutions of higher learning,

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3829 community colleges, vocational technical schools, or public
 3830 schools, as now defined or as may hereafter be defined by law.
 3831 All such bonds shall mature not later than thirty years after the
 3832 date of issuance thereof. All other details of such bonds shall
 3833 be as provided by law or by the proceedings authorizing such
 3834 bonds; provided, however, that no bonds, except refunding bonds,
 3835 shall be issued, and no proceeds shall be expended for the cost
 3836 of any capital project, unless such project has been authorized
 3837 by the legislature.

3838 Bonds issued pursuant to this subsection (a)(2) shall be
 3839 primarily payable from such revenues derived from gross receipts
 3840 taxes, and shall be additionally secured by the full faith and
 3841 credit of the state. No such bonds shall ever be issued in an
 3842 amount exceeding ninety percent of the amount which the state
 3843 board determines can be serviced by the revenues derived from the
 3844 gross receipts taxes accruing thereafter under the provisions of
 3845 this subsection (a)(2), and such determination shall be
 3846 conclusive.

3847 The moneys in the capital outlay fund in each fiscal year
 3848 shall be used only for the following purposes and in the
 3849 following order of priority:

3850 a. For the payment of the principal of and interest on any
 3851 bonds due in such fiscal year;

3852 b. For the deposit into any reserve funds provided for in
 3853 the proceedings authorizing the issuance of bonds of any amounts
 3854 required to be deposited in such reserve funds in such fiscal
 3855 year;

3856 c. For direct payment of the cost or any part of the cost
 3857 of any capital project for the state system theretofore

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authorized by the legislature, or for the purchase or redemption of outstanding bonds in accordance with the provisions of the proceedings which authorized the issuance of such bonds, or for the purpose of maintaining, restoring, or repairing existing public educational facilities.

(b) REFUNDING BONDS. Revenue bonds to finance the cost of state capital projects issued prior to the date this revision becomes effective, including projects of the Florida state turnpike authority or its successor but excluding all portions of the state highway system, may be refunded as provided by law without vote of the electors at a lower net average interest cost rate by the issuance of bonds maturing not later than the obligations refunded, secured by the same revenues only.

(c) MOTOR VEHICLE FUEL TAXES.

(1) A state tax, designated "second gas tax," of two cents per gallon upon gasoline and other like products of petroleum and an equivalent tax upon other sources of energy used to propel motor vehicles as levied by Article IX, Section 16, of the Constitution of 1885, as amended, is hereby continued. The proceeds of said tax shall be placed monthly in the state roads distribution fund in the state treasury.

(2) Article IX, Section 16, of the Constitution of 1885, as amended, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim for the purpose of providing that after the effective date of this revision the proceeds of the "second gas tax" as referred to therein shall be allocated among the several counties in accordance with the formula stated therein to the extent necessary to comply with all obligations to or for the benefit of

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3887 holders of bonds, revenue certificates, and tax anticipation
3888 certificates or any refundings thereof secured by any portion of
3889 the "second gas tax."

3890 (3) No funds anticipated to be allocated under the formula
3891 stated in Article IX, Section 16, of the Constitution of 1885, as
3892 amended, shall be pledged as security for any obligation
3893 hereafter issued or entered into, except that any outstanding
3894 obligations previously issued pledging revenues allocated under
3895 said Article IX, Section 16, may be refunded at a lower average
3896 net interest cost rate by the issuance of refunding bonds,
3897 maturing not later than the obligations refunded, secured by the
3898 same revenues and any other security authorized in paragraph (5)
3899 of this subsection.

3900 (4) Subject to the requirements of paragraph (2) of this
3901 subsection and after payment of administrative expenses, the
3902 "second gas tax" shall be allocated to the account of each of the
3903 several counties in the amounts to be determined as follows:
3904 There shall be an initial allocation of one-fourth in the ratio
3905 of county area to state area, one-fourth in the ratio of the
3906 total county population to the total population of the state in
3907 accordance with the latest available federal census, and one-half
3908 in the ratio of the total "second gas tax" collected on retail
3909 sales or use in each county to the total collected in all
3910 counties of the state during the previous fiscal year. If the
3911 annual debt service requirements of any obligations issued for
3912 any county, including any deficiencies for prior years, secured
3913 under paragraph (2) of this subsection, exceeds the amount which
3914 would be allocated to that county under the formula set out in
3915 this paragraph, the amounts allocated to other counties shall be

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reduced proportionately.

(5) Funds allocated under paragraphs (2) and (4) of this subsection shall be administered by the state board of administration created under Article IV, Section 4. The board shall remit the proceeds of the "second gas tax" in each county account for use in said county as follows: eighty per cent to the state agency supervising the state road system and twenty per cent to the governing body of the county. The percentage allocated to the county may be increased by general law. The proceeds of the "second gas tax" subject to allocation to the several counties under this paragraph (5) shall be used first, for the payment of obligations pledging revenues allocated pursuant to Article IX, Section 16, of the Constitution of 1885, as amended, and any refundings thereof; second, for the payment of debt service on bonds issued as provided by this paragraph (5) to finance the acquisition and construction of roads as defined by law; and third, for the acquisition and construction of roads and for road maintenance as authorized by law. When authorized by law, state bonds pledging the full faith and credit of the state may be issued without any election: (i) to refund obligations secured by any portion of the "second gas tax" allocated to a county under Article IX, Section 16, of the Constitution of 1885, as amended; (ii) to finance the acquisition and construction of roads in a county when approved by the governing body of the county and the state agency supervising the state road system; and (iii) to refund obligations secured by any portion of the "second gas tax" allocated under paragraph 9(c)(4). No such bonds shall be issued unless a state fiscal agency created by law has made a determination that in no state fiscal year will the debt

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service requirements of the bonds and all other bonds secured by the pledged portion of the "second gas tax" allocated to the county exceed seventy-five per cent of the pledged portion of the "second gas tax" allocated to that county for the preceding state fiscal year, of the pledged net tolls from existing facilities collected in the preceding state fiscal year, and of the annual average net tolls anticipated during the first five state fiscal years of operation of new projects to be financed, and of any other legally available pledged revenues collected in the preceding state fiscal year. Bonds issued pursuant to this subsection shall be payable primarily from the pledged tolls, the pledged portions of the "second gas tax" allocated to that county, and any other pledged revenue, and shall mature not later than forty years from the date of issuance.

(d) SCHOOL BONDS.

(1) Article XII, Section 9(d) 9, ~~Subsection (d)~~ of this constitution, as amended, (which, by reference, adopted Article XII, Section 18, of the Constitution of 1885, as amended), as the same existed immediately before the effective date of this amendment is adopted by this reference as part of this amendment as completely as though incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment the first proceeds of the revenues derived from the licensing of motor vehicles as referred to therein shall be distributed annually among the several counties in the ratio of the number of instruction units in each county, the same being coterminous ~~coterminous~~ with the school district of each county as provided in Article IX, Section 4(a) 4, ~~Subsection (a)~~ of this constitution, in each year computed as provided therein to the

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extent necessary to comply with all obligations to or for the benefit of holders of bonds or motor vehicle tax anticipation certificates issued before the effective date of this amendment or any refundings thereof which are secured by any portion of such revenues derived from the licensing of motor vehicles.

(2) No funds anticipated to be distributed annually among the several counties under the formula stated in Article XII, Section 9(d) ~~9, Subsection (d)~~ of this constitution, as amended, as the same existed immediately before the effective date of this amendment shall be pledged as security for any obligations hereafter issued or entered into, except that any outstanding obligations previously issued pledging such funds may be refunded by the issuance of refunding bonds.

(3) Subject to the requirements of subsection (d)(1) ~~paragraph (1) of this subsection (d)~~ beginning July 1, 1973, the first proceeds of the revenues derived from the licensing of motor vehicles (hereinafter called "motor vehicle license revenues") to the extent necessary to comply with the provisions of this amendment, shall, as collected, be placed monthly in the school district and community college district capital outlay and debt service fund in the state treasury and used only as provided in this amendment. Such revenue shall be distributed annually among the several school districts and community college districts in the ratio of the number of instruction units in each school district or community college district in each year computed as provided herein. The amount of the first motor vehicle license revenues to be so set aside in each year and distributed as provided herein shall be an amount equal in the aggregate to the product of six hundred dollars (\$600) multiplied

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4003 by the total number of instruction units in all the school
 4004 districts of Florida for the school fiscal year 1967-68, plus an
 4005 amount equal in the aggregate to the product of eight hundred
 4006 dollars (\$800) multiplied by the total number of instruction
 4007 units in all the school districts of Florida for the school
 4008 fiscal year 1972-73 and for each school fiscal year thereafter
 4009 which is in excess of the total number of such instruction units
 4010 in all the school districts of Florida for the school fiscal year
 4011 1967-68, such excess units being designated "growth units." The
 4012 amount of the first motor vehicle license revenues to be so set
 4013 aside in each year and distributed as provided herein shall
 4014 additionally be an amount equal in the aggregate to the product
 4015 of four hundred dollars (\$400) multiplied by the total number of
 4016 instruction units in all community college districts of Florida.
 4017 The number of instruction units in each school district or
 4018 community college district in each year for the purposes of this
 4019 amendment shall be the greater of (1) the number of instruction
 4020 units in each school district for the school fiscal year 1967-68
 4021 or community college district for the school fiscal year 1968-69
 4022 computed in the manner heretofore provided by general law, or (2)
 4023 the number of instruction units in such school district,
 4024 including growth units, or community college district for the
 4025 school fiscal year computed in the manner heretofore or hereafter
 4026 provided by general law and approved by the state board of
 4027 education (hereinafter called the state board), or (3) the number
 4028 of instruction units in each school district, including growth
 4029 units, or community college district on behalf of which the state
 4030 board has issued bonds or motor vehicle license revenue
 4031 anticipation certificates under this amendment which will produce

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sufficient revenues under this amendment to equal one and twelve-hundredths (1.12) times the aggregate amount of principal of and interest on all bonds or motor vehicle license revenue anticipation certificates issued under this amendment which will mature and become due in such year, computed in the manner heretofore or hereafter provided by general law and approved by the state board.

(4) Such funds so distributed shall be administered by the state board as now created and constituted by Section 2, ~~of~~ Article IX of the State Constitution as revised in 1968, or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties, and functions of the state board, including the powers, duties, and functions of the state board provided in this amendment. For the purposes of this amendment, said state board shall be a body corporate and shall have all the powers provided in this amendment in addition to all other constitutional and statutory powers related to the purposes of this amendment heretofore or hereafter conferred upon said state board.

(5) The state board shall, in addition to its other constitutional and statutory powers, have the management, control, and supervision of the proceeds of the first motor vehicle license revenues provided for in this subsection (d). The state board shall also have power, for the purpose of obtaining funds for the use of any school board of any school district or board of trustees of any community college district in acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school

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purposes to issue bonds or motor vehicle license revenue anticipation certificates, and also to issue such bonds or motor vehicle license revenue anticipation certificates to pay, fund, or refund any bonds or motor vehicle license revenue anticipation certificates theretofore issued by said state board. All such bonds or motor vehicle license revenue anticipation certificates shall bear interest at not exceeding the rate provided by general law and shall mature not later than thirty years after the date of issuance thereof. The state board shall have power to determine all other details of the bonds or motor vehicle license revenue anticipation certificates and to sell in the manner provided by general law, or exchange the bonds or motor vehicle license revenue anticipation certificates, upon such terms and conditions as the state board shall provide.

(6) The state board shall also have power to pledge for the payment of the principal of and interest on such bonds or motor vehicle license revenue anticipation certificates, including refunding bonds or refunding motor vehicle license revenue anticipation certificates, all or any part from the motor vehicle license revenues provided for in this amendment and to enter into any covenants and other agreements with the holders of such bonds or motor vehicle license revenue anticipation certificates at the time of the issuance thereof concerning the security thereof and the rights of the holders thereof, all of which covenants and agreements shall constitute legally binding and irrevocable contracts with such holders and shall be fully enforceable by such holders in any court of competent jurisdiction.

(7) No such bonds or motor vehicle license revenue anticipation certificates shall ever be issued by the state

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4090 board, except to refund outstanding bonds or motor vehicle
 4091 license revenue anticipation certificates, until after the
 4092 adoption of a resolution requesting the issuance thereof by the
 4093 school board of the school district or board of trustees of the
 4094 community college district on behalf of which the obligations are
 4095 to be issued. The state board of education shall limit the
 4096 amount of such bonds or motor vehicle license revenue
 4097 anticipation certificates which can be issued on behalf of any
 4098 school district or community college district to ninety percent
 4099 (90%) of the amount which it determines can be serviced by the
 4100 revenue accruing to the school district or community college
 4101 district under the provisions of this amendment, and shall
 4102 determine the reasonable allocation of the interest savings from
 4103 the issuance of refunding bonds or motor vehicle license revenue
 4104 anticipation certificates, and such determinations shall be
 4105 conclusive. All such bonds or motor vehicle license revenue
 4106 anticipation certificates shall be issued in the name of the
 4107 state board of education but shall be issued for and on behalf of
 4108 the school board of the school district or board of trustees of
 4109 the community college district requesting the issuance thereof,
 4110 and no election or approval of qualified electors shall be
 4111 required for the issuance thereof.

4112 (8) The state board shall in each year use the funds
 4113 distributable pursuant to this amendment to the credit of each
 4114 school district or community college district only in the
 4115 following manner and in order of priority:

4116 a. To comply with the requirements of subsection (d)(1)
 4117 ~~paragraph (1) of this subsection (d).~~

4118 b. To pay all amounts of principal and interest due in such

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4119 year on any bonds or motor vehicle license revenue anticipation
 4120 certificates issued under the authority hereof, including
 4121 refunding bonds or motor vehicle license revenue anticipation
 4122 certificates, issued on behalf of the school board of such school
 4123 district or board of trustees of such community college district;
 4124 subject, however, to any covenants or agreements made by the
 4125 state board concerning the rights between holders of different
 4126 issues of such bonds or motor vehicle license revenue
 4127 anticipation certificates, as herein authorized.

4128 c. To establish and maintain a sinking fund or funds to
 4129 meet future requirements for debt service or reserves therefor,
 4130 on bonds or motor vehicle license revenue anticipation
 4131 certificates issued on behalf of the school board of such school
 4132 district or board of trustees of such community college district
 4133 under the authority hereof, whenever the state board shall deem
 4134 it necessary or advisable, and in such amounts and under such
 4135 terms and conditions as the state board shall in its discretion
 4136 determine.

4137 d. To distribute annually to the several school boards of
 4138 the school districts or the boards of trustees of the community
 4139 college districts for use in payment of debt service on bonds
 4140 heretofore or hereafter issued by any such school boards of the
 4141 school districts or boards of trustees of the community college
 4142 districts where the proceeds of the bonds were used, or are to be
 4143 used, in the acquiring, building, constructing, altering,
 4144 remodeling, improving, enlarging, furnishing, equipping,
 4145 maintaining, renovating, or repairing of capital outlay projects
 4146 in such school districts or community college districts and which
 4147 capital outlay projects have been approved by the school board of

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the school district or board of trustees of the community college district, pursuant to the most recent survey or surveys conducted under regulations prescribed by the state board to determine the capital outlay needs of the school district or community college district. The state board shall have power at the time of issuance of any bonds by any school board of any school district or board of trustees of any community college district to covenant and agree with such school board or board of trustees as to the rank and priority of payments to be made for different issues of bonds under this subparagraph d., and may further agree that any amounts to be distributed under this subparagraph d. may be pledged for the debt service on bonds issued by any school board of any school district or board of trustees of any community college district and for the rank and priority of such pledge. Any such covenants or agreements of the state board may be enforced by any holders of such bonds in any court of competent jurisdiction.

e. To pay the expenses of the state board in administering this subsection (d), which shall be prorated among the various school districts and community college districts and paid out of the proceeds of the bonds or motor vehicle license revenue anticipation certificates or from the funds distributable to each school district and community college district on the same basis as such motor vehicle license revenues are distributable to the various school districts and community college districts.

f. To distribute annually to the several school boards of the school districts or boards of trustees of the community college districts for the payment of the cost of acquiring, building, constructing, altering, remodeling, improving,

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enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school purposes in such school district or community college district as shall be requested by resolution of the school board of the school district or board of trustees of the community college district.

g. When all major capital outlay needs of a school district or community college district have been met as determined by the state board, on the basis of a survey made pursuant to regulations of the state board and approved by the state board, all such funds remaining shall be distributed annually and used for such school purposes in such school district or community college district as the school board of the school district or board of trustees of the community college district shall determine, or as may be provided by general law.

(9) Capital outlay projects of a school district or community college district shall be eligible to participate in the funds accruing under this amendment and derived from the proceeds of bonds and motor vehicle license revenue anticipation certificates and from the motor vehicle license revenues, only in the order of priority of needs, as shown by a survey or surveys conducted in the school district or community college district under regulations prescribed by the state board, to determine the capital outlay needs of the school district or community college district and approved by the state board; provided that the priority of such projects may be changed from time to time upon the request of the school board of the school district or board of trustees of the community college district and with the approval of the state board; and provided, further, that this paragraph ~~(9)~~ shall not in any manner affect any covenant,

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agreement, or pledge made by the state board in the issuance by said state board of any bonds or motor vehicle license revenue anticipation certificates, or in connection with the issuance of any bonds of any school board of any school district or board of trustees of any community college district.

(10) The state board shall have power to make and enforce all rules and regulations necessary to the full exercise of the powers herein granted and no legislation shall be required to render this amendment of full force and operating effect. The legislature shall not reduce the levies of said motor vehicle license revenues during the life of this amendment to any degree which will fail to provide the full amount necessary to comply with the provisions of this amendment and pay the necessary expenses of administering the laws relating to the licensing of motor vehicles, and shall not enact any law having the effect of withdrawing the proceeds of such motor vehicle license revenues from the operation of this amendment and shall not enact any law impairing or materially altering the rights of the holders of any bonds or motor vehicle license revenue anticipation certificates issued pursuant to this amendment or impairing or altering any covenant or agreement of the state board, as provided in such bonds or motor vehicle license revenue anticipation certificates.

(11) Bonds issued by the state board pursuant to this subsection ~~(d)~~ shall be payable primarily from said motor vehicle license revenues as provided herein, and if heretofore or hereafter authorized by law, may be additionally secured by pledging the full faith and credit of the state without an election. When heretofore or hereafter authorized by law, bonds issued pursuant to Article XII, Section 18 of the Constitution of

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4235 1885, as amended prior to 1968, and bonds issued pursuant to
4236 Article XII, Section 9(d) ~~9, subsection (d)~~ of the Constitution
4237 as revised in 1968, and bonds issued pursuant to this subsection
4238 ~~(d)~~, may be refunded by the issuance of bonds additionally
4239 secured by the full faith and credit of the state.

4240 (e) DEBT LIMITATION. Bonds issued pursuant to this Section
4241 9, ~~of~~ Article XII which are payable primarily from revenues
4242 pledged pursuant to this section shall not be included in
4243 applying the limits upon the amount of state bonds contained in
4244 Section 11, Article VII, of this revision.

4245 SECTION 10. Preservation of existing government.--All
4246 provisions of Articles I through IV, VII, and IX through XX of
4247 the Constitution of 1885, as amended, not embraced herein which
4248 are not inconsistent with this revision shall become statutes
4249 subject to modification or repeal as are other statutes.

4250 SECTION 11. Deletion of obsolete schedule items.--The
4251 legislature shall have power, by joint resolution, to delete from
4252 this revision any section of this Article XII, including this
4253 section, when all events to which the section to be deleted is or
4254 could become applicable have occurred. A legislative
4255 determination of fact made as a basis for application of this
4256 section shall be subject to judicial review.

4257 SECTION 12. Senators.--The requirements of staggered terms
4258 of senators in Section 15(a), ~~of~~ Article III of this revision
4259 shall apply only to senators elected in November, 1972, and
4260 thereafter.

4261 SECTION 13. Legislative apportionment.--The requirements of
4262 legislative apportionment in Section 16, ~~of~~ Article III of this
4263 revision shall apply only to the apportionment of the legislature

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following the decennial census of 1970, and thereafter.

SECTION 14. Representatives; terms.--The legislature at its first regular session following the ratification of this revision, by joint resolution, shall propose to the electors of the state for ratification or rejection in the general election of 1970 an amendment to Article III, Section 15(b), of the constitution providing staggered terms of four years for members of the house of representatives.

SECTION 15. Special district taxes.--Ad valorem taxing power vested by law in special districts existing when this revision becomes effective shall not be abrogated by Section 9(b) of Article VII herein, but such powers, except to the extent necessary to pay outstanding debts, may be restricted or withdrawn by law.

~~SECTION 16. Reorganization.--The requirement of Section 6, Article IV of this revision shall not apply until July 1, 1969.~~

SECTION 17. Conflicting provisions.--This schedule is designed to effect the orderly transition of government from the Constitution of 1885, as amended, to this revision and shall control in all cases of conflict with any part of Article I through IV, VII, and IX through XI herein.

~~SECTION 18. Bonds for housing and related facilities.--Section 16 of Article VII, providing for bonds for housing and related facilities, shall take effect upon approval by the electors.~~

~~SECTION 19. Renewable energy source property.--The amendment to Section 3 of Article VII, relating to an exemption for a renewable energy source device and real property on which such device is installed, if adopted at the special election in~~

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4293 ~~October 1980, shall take effect January 1, 1981.~~

4294 ~~SECTION 20. Access to public records. Section 24 of~~
4295 ~~Article I, relating to access to public records, shall take~~
4296 ~~effect July 1, 1993.~~

4297 SECTION 21. State revenue limitation.--The amendment to
4298 Section 1, of Article VII limiting state revenues shall take
4299 effect January 1, 1995, and shall first be applicable to state
4300 fiscal year 1995-1996.

4301 SECTION 22. Historic property exemption and assessment.--
4302 The amendments to Sections 3 and 4, of Article VII relating to ad
4303 valorem tax exemption for, and assessment of, historic property
4304 shall take effect January 1, 1999.

4305 SECTION 23. Fish and wildlife conservation commission.--

4306 (a) The initial members of the commission shall be the
4307 members of the game and fresh water fish commission and the
4308 marine fisheries commission who are serving on those commissions
4309 on the effective date of this amendment, who may serve the
4310 remainder of their respective terms. New appointments to the
4311 commission shall not be made until the retirement, resignation,
4312 removal, or expiration of the terms of the initial members
4313 results in fewer than seven members remaining.

4314 (b) The jurisdiction of the marine fisheries commission as
4315 set forth in statutes in effect on March 1, 1998, shall be
4316 transferred to the fish and wildlife conservation commission. The
4317 jurisdiction of the marine fisheries commission transferred to
4318 the commission shall not be expanded except as provided by
4319 general law. All rules of the marine fisheries commission and
4320 game and fresh water fish commission in effect on the effective
4321 date of this amendment shall become rules of the fish and

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wildlife conservation commission until superseded or amended by the commission.

(c) On the effective date of this amendment, the marine fisheries commission and game and fresh water fish commission shall be abolished.

(d) This amendment shall take effect July 1, 1999.

SECTION 24. Executive branch reform.--

(a) The amendments contained in this revision shall take effect January 7, 2003, but shall govern with respect to the qualifying for and the holding of primary elections in 2002. The office of chief financial officer shall be a new office as a result of this revision.

(b) In the event the secretary of state is removed as a cabinet office in the 1998 general election, the term "custodian of state records" shall be substituted for the term "secretary of state" throughout the constitution and the duties previously performed by the secretary of state shall be as provided by law.

~~SECTION 25. Schedule to Article V amendment.~~

~~(a) Commencing with fiscal year 2000-2001, the legislature shall appropriate funds to pay for the salaries, costs, and expenses set forth in the amendment to Section 14 of Article V pursuant to a phase-in schedule established by general law.~~

~~(b) Unless otherwise provided herein, the amendment to Section 14 shall be fully effectuated by July 1, 2004.~~

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

MULTIPLE ARTICLES

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4350 OBSOLETE AND ERRONEOUS PROVISIONS.--Proposing revisions to
4351 multiple articles of the State Constitution to delete obsolete
4352 provisions and to correct grammar errors and inconsistencies in
4353 wording.

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